

CITY OF BIWABIK

PLANNING AND ZONING COMMISSION

AGENDA

**THURSDAY, JULY 6, 2023
6:00 P.M. REGULAR MEETING**

**3RD FLR, COUNCIL CHAMBERS
321 N. MAIN ST., BIWABIK, MN**

- 1. Call to Order/Roll Call/Approve Agenda**
- 2. Approval of Minutes – June 1, 2023**
- 3. Discussion of Long-Term Rental Regulation Ordinance**
- 4. Discussion of Bavarian Theme Ordinance**
- 5. Board Questions/Comments**
- 6. Adjourn**

**CITY OF BIWABIK
PLANNING & ZONING COMMISSION
THURSDAY, JUNE 1, 2023
5:00 PM COUNCIL CHAMBERS**

Roll call:

Present: Commissioners Kris Weikum, Sally Henderson, Peter Senarighi, Dave Setnicker, Derrek VanKlein

Absent:

Others present: Administrator Jacobson, Deputy Clerk S. Mackey

Audience: Mayor Weikum

Meeting was called to order at 6:00 PM

Moved by Commissioner Setnicker, supported by Commissioner Senarighi to approve the agenda as presented. Motion carried.

Moved by Commissioner Senarighi, supported by Commissioner Setnicker to approve the minutes from May 4, 2023. Motion carried.

Commission went through the short term ordinance one more time:

Section 2 –

1. In the definition for short term guest – do we need all the commas? Yes, they are supposed to be there.

Section 3 –

1. In section (c) does dwelling need to be capitalized? No – will change it.
2. In section (e) part (i) residential should be lower case, in part (ii) proposed and performance should be lower case, and in part (iii) put in Biwabik with the city code portion.

Section 4 –

1. In section (a) lower case “s” on section, and take out the word non-assignable and hyphenate non-transferable
2. In section (c) lower case “s” on section, short term rental should be capitalized and it should read December 31 not December 31st
3. In section (d) short term rental should be capitalized
4. In section (g) owner of (change of to or)
5. In section (h) period at the end of bold text and sentence (goes for through out the headline parts)
6. In section (i) add City of Biwabik

Section 7 –

1. Does ordinance have to be capitalized (can be, yes)

** Wherever the word City is – include Biwabik with it

Moved by Councilor Senarighi, supported by Councilor Henderson to forward the ordinance on to the council with the corrections made tonight. Motion carried.

Administrator Jacobson made sure everyone was aware of the oppositions that will more than likely come up, there are certain people who disagree with this ordinance.

Commission had a preliminary discussion about long term rental regulations – could possibly look at editing it via a google doc.

Commissioner Weikum did read about a possible interim ordinance for cannabis until January of 2025. Something to keep our eyes out for.

Moved by Commissioner Senarighi, supported by Commissioner Henderson to adjourn the meeting at 5:47 PM

CHAPTER 153: LONG-TERM RENTALS

Section

- 153.01 Purpose and findings
- 153.02 Definitions
- 153.03 Registration requirements
- 153.04 Exemptions
- 153.05 Manner of registration renewal
- 153.06 Transfer of property
- 153.07 Posting of registration
- 153.08 Fees
- 153.09 Maintenance of records
- 153.10 Maintenance of standards
- 153.11 Inspections and investigations
- 153.12 Conduct on registered premises
- 153.13 Failure to grant registration, revocation, suspension or failure to renew registration
- 153.14 Summary action
- 153.15 Applicable laws
- 153.16 Violations, injunctive relief
- 153.17 Written notices
- 153.18 Effective date

§ 153.01 PURPOSE AND FINDINGS.

(A) The City Council of the City of Biwabik finds that there is a need for periodic municipal inspection of residential rental units in the city to ensure that such units meet city and state safety, health, fire and zoning codes and to promote the public health, safety and welfare of the community at large and the residents of rental units within this city.

(B) The City Council of the City of Biwabik finds that a municipal registration program is appropriate to effectively enforce residential rental unit maintenance standards and correct or prevent law violations, nuisances, and other disturbances and disorders involving residential rental units within this city.

(C) The City Council of the City of Biwabik finds that an effective means of implementing the foregoing findings is registration of all residential rental units within the city and inspection of such units from time to time as determined appropriate in the exercise of discretion by staff and personnel of the city and in response to complaints involving such units.

§ 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR OR CITY ADMINISTRATOR. The Biwabik City Administrator, or the Deputy Biwabik City Clerk in the absence of the City Administrator, or such person as the City Administrator designates, in writing, to carry out the responsibilities of the City Administrator as provided by this chapter.

DWELLING. Any building or other permanent or temporary structure, including a manufactured or mobile home which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

LOCAL PROPERTY MANAGER. A natural person residing within 30 miles of the City of Biwabik who is authorized by the rental unit owner to make decisions for the owner about rental, occupancy and maintenance of the rental unit.

REGISTRATION HOLDER. A person or entity to whom registration for a rental unit is issued under this chapter.

RENT, LEASE, LET, or SUBLET. The leasing of a rental unit to a non-owner for a fixed or non-fixed period of time of more than 30 days, and shall include lease to buy, contract for deed, installment sales, purchases, and other similar arrangements whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure.

RENTAL UNIT/RESIDENTIAL RENTAL UNIT. Any house, apartment, condominium, townhouse, room, or group of rooms, constituting or located within, a dwelling and forming a single habitable unit.

SHALL and **MUST.** As used in this chapter are each mandatory.

SHOULD and **MAY.** As used in this chapter are each permissive or directory.

§ 153.03 REGISTRATION REQUIREMENTS.

(A) No person or entity may hereafter occupy, allow to be occupied or rent, lease, let or sub-let a rental unit, to another person or entity for occupancy unless that rental unit is registered for occupancy pursuant to a valid and current rental unit registration issued by the Biwabik City Administrator.

(B) Each rental unit must have an owner, or local property manager designated by the owner, who resides within 30 miles of the City of Biwabik.

(C) Any person or entity desiring to rent, let, lease or sub-let any rental unit shall apply for registration by using forms furnished by the city for that purpose. The forms must provide information required by the City Administrator, including, but not limited to the following:

- (1) Name, address, phone number of the property owner.
- (2) Name, address, phone number of a designated local property manager.
- (3) The street address of the rental property.
- (4) The number and types of units within the rental property (dwelling units or sleeping rooms).
- (5) The maximum number of occupants permitted for each dwelling unit or sleeping room.
- (6) The name, phone number, and address of the person authorized to make, or order, made repairs or services for the property if in violation of city or state codes, if the person is different than the owner or local property manager.

§ 153.04 EXEMPTIONS.

This chapter does not apply to campus dormitory and campus residence units owned, operated or managed by a governmental entity or agency, hospital units or rooms, nursing homes, retirement homes or other similar rental space which is otherwise registered by the State of Minnesota or the City of Biwabik.

§ 153.05 MANNER OF REGISTRATION RENEWAL.

Registration shall be required each calendar year and may be issued on a calendar year basis prior to January 1 of each successive year. The city will annually mail registration renewal forms to rental unit owners or their designated local property managers on or about October 1 of each year. Registration renewal forms must be delivered to the City Administrator no later than the fifteenth day of November each year. Failure of the city to mail renewal forms and failure of an owner or local property manager to receive a renewal form, does not excuse or waive the registration required by this chapter.

§ 153.06 TRANSFER OF PROPERTY.

Every new owner of a rental unit, whether fee owner or contract purchaser, shall furnish to the City Administrator the new owner's name, address, and phone number, and the name, address, and phone number of the new owner's designated local property manager before taking possession of the rental property upon closing of the transaction. No new registration fee is required of the new owner during the year in which such possession takes place, provided that the previous owner has paid all registration fees and has complied with all requirements of this chapter and any violations of health, zoning, fire or safety codes of the city and county. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration application will be required.

§ 153.07 POSTING OF REGISTRATION.

Each rental unit registration holder must post the rental unit registration in a conspicuous spot near the front entry to the rental unit in a public corridor, hallway or lobby. Failure to post the registration and keep the registration posted is a misdemeanor, but is not grounds for termination of registration.

§ 153.08 FEES.

The fees for rental unit registration, registration renewal, late fees and inspection may be set by ordinance or resolution of the City Council adopted from time to time.

§ 153.09 MAINTENANCE OF RECORDS.

All records, files and documents pertaining to rental unit registration and rental unit inspections may be maintained by the City Administrator and will be available to the public as allowed, permitted or required by state law or city ordinance.

§ 153.10 MAINTENANCE OF STANDARDS.

Every rental unit must be maintained in compliance with the building code, dwelling maintenance standards, nuisance ordinance, and noise ordinance of the City of Biwabik, St. Louis County, and State of Minnesota respectively as now in force and hereafter amended, revised or replaced, and in compliance with all other standards, ordinances, laws and regulations governing use, occupancy, construction and maintenance of property and conduct of persons in or on that property.

§ 153.11 INSPECTIONS AND INVESTIGATIONS.

(A) Fire Department personnel, East Range Police Department officers, the City Zoning Officer, City Rental Inspector, City Administrator and their respective designees and representatives, are hereby authorized to make inspections reasonably necessary to the enforcement of this chapter.

(B) All persons authorized herein to inspect shall have the authority to enter, at all reasonable times, any rental unit or structure containing a rental unit, registered or required to be registered, for the purpose of enforcing this chapter.

(C) Written notice of a violation of this chapter may be given to the registration holder by certified mail directed to the address of the registration holder as shown by the Administrator's registration application file. Said notice may contain a compliance order stating that compliance with this chapter shall be made immediately and, in that case, the notice shall advise the registration holder that the property may be re-inspected in not less than 15 days, unless extended by the Administrator, based on good cause.

(D) A registration holder may appeal to the City Administrator the requirements of any compliance order by filing a written appeal with the office of the City Administrator no later than ten days after the date of issuance of the compliance order. The City Administrator should schedule a hearing within ten days after filing of the notice of appeal. Enforcement of the compliance order shall be stayed pending the decision of the City Administrator on the appeal. The City Administrator may reschedule the hearing as the Administrator determines is necessary.

§ 153.12 CONDUCT ON REGISTERED PREMISES.

(A) It is the responsibility of the registration holder to require and ensure that occupants of the registered premises conduct themselves in such a manner as to not cause the premises to be disorderly or to be used, occupied or maintained in violation of law or ordinance. For purposes of this section, a rental unit is disorderly and in violation of law or ordinance when any of the following activities occur in, on or at the registered premises:

(1) Conduct which constitutes a violation of the Biwabik City Code relating to nuisances as it now exists or as hereafter amended.

(2) Conduct which constitutes a violation of Biwabik City Code 130, the noise ordinances as it now exists or as hereafter amended.

(3) Conduct which constitutes disorderly conduct in violation of M.S. § 609.72 as it now exists or as hereafter amended.

(4) Conduct which constitutes a violation of laws relating to possession of controlled substances pursuant to M.S. Chapter 152 as it now exists or as hereafter amended.

(5) Conduct which constitutes a violation of any city ordinance or state law relating to minors possessing or consuming alcohol, or relating to providing, furnishing or serving alcohol to minors, or relating to sale of alcoholic beverages.

(6) Conduct which constitutes a violation of state laws or city ordinances relating to prostitution, indecent exposure or acts related to prostitution as defined by state law.

(7) Conduct which constitutes a violation of city ordinances and state laws relating to weapons or fire arms.

(8) Conduct which constitutes a violation of city ordinances or state laws relating to assault, specifically including domestic assaults and criminal sexual conduct.

(9) Conduct which constitutes a violation of ordinances or laws relating to contributing to the need for protection, services or delinquency of a minor as defined in M.S. § 260.315 as it now exists or as hereafter amended.

(10) Conduct which constitutes a violation of any other federal, state or local ordinance or regulation and which is reasonably likely to threaten, annoy or harass tenants or visitors to rental units, or to residents, visitors or occupants of neighboring properties.

(B) The City Administrator shall administer this section of the chapter and may delegate administration to a designee authorized in writing by the City Administrator.

(C) If the Administrator determines that a violation of this section has occurred, then the Administrator will give notice of the violation to the registration holder and the renters of the rental unit, if known, and will direct that the registration holder take steps to prevent further violations.

(D) If another violation of this section occurs within 90 days of the incident for which notice was given as provided in division (C) above, then the City Administrator will give notice of the violation to the registration holder and the renters of the rental unit, if known, and will direct that the registration holder take steps to prevent further violations. The City Administrator will also, at that time, request that the registration holder submit to the City Administrator, within ten days of the City Administrator's mailing of the notice of violation provided in this section, a report itemizing all actions taken by the registration holder in response to all notices of violations as to the rental unit within the preceding 90 days.

(E) If a third violation of this section occurs within 90 days after the last of any two or more previous violations for which notices were given pursuant to this section, and the registration holder has not sufficiently taken action to prevent further violations, then the rental unit registration for the premises may be denied, revoked, suspended or not renewed.

(1) Action to deny, revoke, suspend or not renew a rental unit registration may be initiated by the City Administrator who shall give to the registration holder a written notice of hearing before the City Administrator to consider such denial, revocation, suspension or non-renewal.

(2) A notice of intent to deny, revoke, suspend or not renew registration shall specify all violations of this section and shall state the date, time, place and purpose of the hearing provided by this division.

(3) The hearing held pursuant to this division shall occur no later than 30 days after notice.

(4) Following the hearing, the City Administrator may deny, revoke, suspend or not renew registration for all or any part of the registered premises or may grant conditional registration upon such terms and conditions as the Administrator finds necessary to accomplish the purpose of this chapter.

(F) No adverse registration action may be imposed where the violation of this section occurred during the pendency of unlawful detainer eviction proceedings brought under M.S. Chapter 566, as it may be amended from time to time, or within 30 days of notice given by the registration holder to a tenant to vacate the premises at which the violation occurred. Unlawful detainer eviction proceedings or a notice to vacate the premises, will not, however, bar adverse registration action unless diligently pursued by the registration holder. Action to deny, revoke, suspend or not renew registration for violation of this section may be postponed or dismissed by the City Administrator at any time if it appears to the Administrator that the registration holder has taken appropriate remedial action.

(G) The standard of proof to be used in determinations by the City Administrator as to conduct constituting violations under this section is a fair preponderance of evidence in support of such a determination. It is not necessary that criminal charges be brought to support a determination of violation of this section or a determination that conduct constituting a violation of this section has occurred. It is necessary, in determining a violation of this section, that law enforcement officers be called to the rental unit in response to a complaint and that a police report and investigation of the same be prepared.

(H) For the purpose of this chapter, a violation under this section includes violations by the rental unit renters or occupants, or by their visitors or guests, in or at the rental unit of the renters or tenants, or in, at or upon its curtilage, including anywhere on the property grounds and premises of an apartment building, home or mobile home park at which the rental unit is situated.

(I) Failure of a registration holder to respond to notices provided in this section is not, by itself alone, a violation of this chapter.

§ 153.13 FAILURE TO GRANT REGISTRATION, REVOCATION, SUSPENSION OR FAILURE TO RENEW REGISTRATION.

(A) The city reserves the right to not register a rental unit unless it complies with the requirements of this chapter.

(B) Any registration issued under this chapter is subject to the right, which is hereby expressly reserved by the city, to deny, suspend, revoke or not renew the same should the registration holder or their agents, employees, representatives or lessees directly or indirectly operate or maintain the rental dwellings contrary to the provisions of this chapter or any other ordinance of the city or any special permit issued by the city, or the laws of the State of Minnesota. Provided, however, registration shall not be denied, suspended, revoked or not renewed if the registration holder complies with a compliance order or orders in a reasonably timely manner as determined by the City Administrator.

(C) The City Administrator shall notify the applicant that registration has been denied, or the registration holder that registration is being suspended, revoked or not renewed. The suspension, revocation or non-renewal shall occur 35 days after the date of the notification order, or at such later date as set out in the notification.

(D) A determination by the City Administrator to deny, suspend, revoke or not renew registration of a rental unit may be appealed to the City Council by filing with the City Administrator a written notice of appeal within 15 days of the date on which the City Administrator mails such determination to the applicant or registration holder. In that event, the appeal will be heard by the City Council at its next meeting occurring at least 15 days after the filing of the notice of appeal.

(E) At any appeal of a determination by the City Administrator under this chapter, the registration holder or applicant, local property manager for the registration holder or applicant, or an attorney representing them, may appear and make a presentation to the City Council. The City Administrator shall present to the City Council the basis for the determination being appealed. After the hearing, the Council may uphold, reverse or modify the decision of the City Administrator based upon the provisions of this chapter and upon the protection of the public health, sanitation, safety or general welfare of the community at large or the residents of rental units within the city. The City Council shall issue written findings and determination within 31 days of the hearing, unless the Council extends that time for good cause.

(F) A decision of the City Council made as provided in this section may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure.

§ 153.14 SUMMARY ACTION.

(A) As a condition of receiving rental unit registration, each registration holder is presumed to agree and consent that when the conduct of any registration holder or registration holder's agent, representative, employee or lessee, or the condition of their rental unit, or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community at large, or residents of the rental units so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the City Administrator shall have the authority to summarily condemn or close individual rental units or such areas of the rental dwelling as the Administrator deems necessary. Notice of summary condemnation shall be posted at the units or areas affected and shall describe the units or areas affected. No person shall remove the posted notice, other than the Fire Chief, East Range Police Chief, City Administrator, or their designated representative. Any person aggrieved by the decision or the action of the City Administrator or Fire Marshall set out in this division, may appeal the decision following the procedures set out in this chapter. The hearing shall be conducted in the same manner as provided in this chapter, however, the date of the hearing may be expedited with the consent of the registration holder.

(B) The decision of the City Administrator set forth in this division is not voided by the filing of such appeal. Only after the hearing by the City Council has been held will the decision or action of the City Administrator be affected.

§ 153.15 APPLICABLE LAWS.

Registration holders are subject to all of the ordinances of the city and State of Minnesota relating to rental dwellings, and this chapter shall not be construed or interpreted to supersede or limit any other applicable ordinance or law.

§ 153.16 VIOLATIONS, INJUNCTIVE RELIEF.

(A) Nothing in this chapter prevents the city from taking enforcement action under any of its fire, housing, zoning, health safety or other codes, ordinances and state laws for violations thereof, or to seek injunctive relief and criminal prosecution for violations of any ordinance, code or law. Nothing contained in this chapter prevents the city from seeking injunctive relief against a property owner or designated property manager who fails to comply with the terms and conditions of this chapter or to obtain an order closing such rental units until violations of this particular chapter have been remedied by the property owner or designated property manager.

(B) Violation of this chapter is a misdemeanor. Each separate day on which a continuing violation occurs is a separate violation.

§ 153.17 WRITTEN NOTICES.

Notices from the city required by this chapter shall be effective if personally delivered or if mailed to the addressee by first class mail to the address shown in the city file pertaining to the rental unit involved in the notice.

§ 153.18 EFFECTIVE DATE.

The initial registration provisions of this chapter do not become effective until April 1, 2023 to allow rental unit owners to complete the process of registration. The initial registration covers a period of time from the date of issue through December 31, 2023.

ORDINANCE NO. 430
SECTION 2.40

AN ORDINANCE AMENDING ARTICLE II OF ORDINANCE NO. 430 ADOPTED
JUNE 17, 1985, AND ENTITLED "ZONING DISTRICTS AND GENERAL
PROVISIONS."

The City Council of Biwabik ordains:

Section 1 - Article II - Section 2.40 of Ordinance No. 430 adopted
June 17, 1985, and entitled "Zoning Districts and General
Provisions" be read:

Any business establishment located within a "C-1" or "C-2"
zoning district doing new construction or exterior renovation or
remodeling to such an extent as to require a building permit must
conform said new construction or exterior renovation or remodeling
to the Alpine Bavarian Theme guidelines on file with the City
Administrator's office in City Hall.

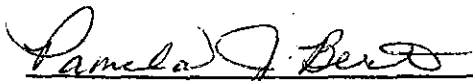
Section 2 - Effective Date. This ordinance becomes effective after
council adoption and 30 days from publication.

Passed by the Biwabik City Council this 10th day of July,
2000.



Steven W. Bradach,
Mayor

Attest:



Pamela J. Berts,
City Administrator

LCMjj; 05/15/00

Published in the Biwabik Times on 20th day of July, 2000.