

BEMIDJI CITY COUNCIL

Work Session Agenda

Monday, September 12, 2011

**City Hall
Chambers
5:30 p.m.**



1. CALL TO ORDER

2. APPROVE 1-4 DAY TEMPORARY ON-SALE LIQUOR LICENSE – RP BROADCASTING ON SEPTEMBER 18 AT SANFORD CENTER

3. 2012 ANNEXATION TIMING

4. MEET WITH CHARTER COMMISSION REGARDING:
 - PROPOSED CHARTER AMENDMENT
 - REVIEW OF CITY CHARTER

5. DISCUSS FUTURE OF CARNEGIE LIBRARY BUILDING

6. REVIEW PROPOSED RENTAL ORDINANCE AMENDMENTS (PUBLIC HEARING IS AT THE COUNCIL'S MEETING ON SEPT. 19)

7. CITY COUNCIL & STAFF UPDATES/QUESTIONS
 - Discussion only.

8. ADJOURNMENT

Bemidji—Regional Center Amenities with Small Town Character



Minnesota Department of Public Safety
ALCOHOL AND GAMBLING ENFORCEMENT DIVISION
 444 Cedar Street Suite 133, St. Paul MN 55101-5133
 (651) 201-7507 Fax (651) 297-5259 TTY (651) 282-6555
 WWW.DPS.STATE.MN.US



**APPLICATION AND PERMIT
 FOR A 1 TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

TYPE OR PRINT INFORMATION

NAME OF ORGANIZATION <i>R.P. Broadcasting, Inc.</i>		DATE ORGANIZED <i>6/1991</i>	TAX EXEMPT NUMBER	
STREET ADDRESS <i>2115 Washington Ave. S.</i>		CITY <i>Bemidji</i>	STATE <i>MN</i>	ZIP CODE <i>56601</i>
NAME OF PERSON MAKING APPLICATION <i>Daniel Vos s</i>		BUSINESS PHONE <i>(218) 751-7777</i>	HOME PHONE <i>()</i>	
DATES LIQUOR WILL BE SOLD <i>9-18-2011</i>		TYPE OF ORGANIZATION CLUB CHARITABLE RELIGIOUS <u>OTHER NONPROFIT</u>		
ORGANIZATION OFFICER'S NAME <i>Roger Paskvan</i>		ADDRESS <i>2115 Washington Ave. S., Bemidji MN 56601</i>		
ORGANIZATION OFFICER'S NAME		ADDRESS		
ORGANIZATION OFFICER'S NAME		ADDRESS		

Location license will be used. If an outdoor area, describe

Sanford Center, Bemidji, MN

Will the applicant contract for intoxicating liquor service? If so, give the name and address of the liquor licensee providing the service.

NO

Will the applicant carry liquor liability insurance? If so, please provide the carrier's name and amount of coverage.

NO

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL & GAMBLING ENFORCEMENT

CITY/COUNTY *Bemidji* DATE APPROVED _____

CITY FEE AMOUNT *\$120.00* LICENSE DATES _____

DATE FEE PAID *9/8/11*

Michelle K. Miller Deputy
 SIGNATURE CITY CLERK OR COUNTY OFFICIAL APPROVED DIRECTOR ALCOHOL AND GAMBLING ENFORCEMENT

NOTE: Submit this form to the city or county 30 days prior to event. Forward application signed by city and/or county to the address above. If the application is approved the Alcohol and Gambling Enforcement Division will return this application to be used as the License for the event

CITY OF BEMIDJI

ORDINANCE NO. ___, 3RD SERIES

AN ORDINANCE AMENDING THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER ADDING SECTION 5.07 RECALL

THE CITY OF BEMIDJI ORDAINS:

Section 1. The City of Bemidji Council-Manager Charter is hereby amended as follows:

Section 5.07 RECALL.

Any elective officer, whether elected by popular vote or appointed to fill a vacancy, may be removed at any time for malfeasance or nonfeasance in office, by the electors qualified to vote for a successor of such officer. The procedure to effect a recall of such elective municipal officer shall be as follows:

Any five (5) registered voters qualified to vote for a successor of the officer sought to be removed may form themselves into a committee for the purpose of bringing about the recall of such elected officer of the City. Such proposal shall be in the form of a certified statement stating the name of the officer whose removal is sought, the grounds for recall in not more than two hundred fifty (250) words, and the committee's intention to bring about the officer's removal. Such committee shall prepare their proposal in all regards and shall conduct the signature gathering and file the completed petition according to Section 5.02; however, the number of necessary signatures shall be equal in number to twenty (20) percent of those who voted for that office in the last election.

Completed recall petition papers shall be filed in the Office of the City Clerk within thirty (30) days of the filing of the initial recall proposal. Within thirty (30) days of filing of the petition, the City Clerk shall determine a) the number of registered voters whose signatures are on the petition, and b) the percentage of the total number of registered voters (at the time of the state or city general election immediately prior to the filing of the petition) which such number constitutes, and c) whether the petition is irregular in any manner.

If the City Clerk finds the numbers of signatures insufficient or finds the petition irregular in any other manner, the Clerk shall at once notify one or more of the committee members of the fact, certifying the reasons for the findings. The committee shall then be given ten (10) working days in which to file additional signature papers or to correct the petition in all other particulars. The City Clerk shall then be given ten (10) additional working days to examine the corrected petition.

If at the end of that period the petition is found still to be insufficient or irregular, the Clerk shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose.

If the petition is found to be sufficient, the Clerk shall transmit the same to the Council without delay, and shall also officially notify the elected officer sought to be recalled of the sufficiency of the petition and of the pending action. The Council shall at its next regular meeting, on motion, order and fix a date for the holding of a special recall election not less than thirty (30) nor more than forty-five (45) days thereafter, provided that if any other municipal election is to occur within sixty (60) days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time. The Council shall make or cause to be made publication of notice, and all arrangements for holding such election, provided, that in the published notice of and for the election there shall be given the statement of the grounds for the recall, and also in not more than two hundred fifty (250) words the answer of the officer concerned in justification of his or her course in office.

The recall election shall be city-wide if the officer is the mayor or councilmember-at-large, and shall be limited to a particular ward if the officer is a ward councilmember. The officer shall be considered removed and the office vacant, if a majority of the votes cast on the question be in favor of the recall of said officer, said officer shall be removed and the Council shall thereupon declare a vacancy to exist. Said vacancy shall be filled in accordance with the provisions of Section 2.05 of this Charter

Unless the officer whose removal is sought shall have resigned within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot question at such election shall be as near as may be: "Shall _____ be recalled from the office of _____ ? The name of the officer whose recall is sought being inserted in the first blank, and the voters shall be permitted to vote separately "yes" or "no" upon this question.

No person who has been removed from office by recall, or has resigned from office after the filing of a recall petition, shall be appointed to any office under this Charter within one (1) year after such recall or resignation.

No removal petition shall be filed against any officer until the officer has actually held office for at least six (6) months.

Insofar as practical, all laws and provisions for holding regular or special elections in the City shall apply to such removal election and the preliminaries thereto, and wherein applicable or impractical the Council shall, by Ordinance, provide such other and further regulation consistent herewith as may be necessary to carry out the provisions of this Section.

Section 2. This ordinance shall become effective ninety (90) days after its passage and publication according to law.

Ayes:
Nays:
Absent:

First Reading:
Second Reading:
Final Reading:

CITY OF BEMIDJI

ORDINANCE NO. __, 3RD SERIES

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE II OF THE BEMIDJI CITY CODE RELATING TO RENTAL HOUSING REGISTRATION CODE

THE CITY OF BEMIDJI DOES ORDAIN:

SECTION 1. Bemidji City Code Chapter 10, Article II, entitled "Rental Housing Registration Code" is hereby amended as follows:

Sec. 10-41. – Purpose.

The City recognizes the need for an organized, systematic inspection program of residential rental units within the City of Bemidji in order to ensure that rental units meet City and State housing safety, health, fire, building and zoning codes, and to provide a more effective system for compelling the correction of code violations and the proper maintenance of rental property within the City. Further, the most effective system to provide for rental inspections is the creation of a program requiring the registration of all residential rental units within the City so that an orderly inspection schedule can be undertaken by the City Building Inspection, Planning Police and Fire Departments. This registration program is intended to protect and promote the health, safety and general welfare of the entire community.

Sec. 10-42. – Definitions.

DWELLING UNIT - Any structure or building, or portion thereof, including a "manufactured home (mobile home)" as defined in Section 109 of the Greater Bemidji Area Zoning and Subdivision Ordinance, which is intended to be used for living or sleeping by human occupants, including bathroom and kitchen facilities permanently installed.

FAMILY - An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or a group of not more than four (4) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

- (a) For purposes of this Article "related" shall be interpreted herein to include any owner of record and an owner's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with that owner as a family unit; "significant other" means romantic partner;
- (b) For purposes of this Article "related" shall also be interpreted herein to include a tenant's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with the tenant as a family unit; "significant other" means romantic partner.

PERSON – The term “person” will mean any natural person, the person’s heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, it’s or their successors or assigns, or the agent of any of the aforesaid.

RENTAL – The leasing of all or a portion of a dwelling unit to a nonowner for a fixed or nonfixed period of time.

RENTAL UNIT – Any room or group of rooms located within a dwelling unit and forming a single habitable unit. Rental unit also includes a lot in a manufactured home park or portion thereof which is rented to a person or entity to place a manufactured home on the lot, whether or not the manufactured home is owner-occupied or leased.

RENTAL PROPERTY – A rental unit occupied by a person or persons in the status of tenant(s), and shall include “lease to buy, contract for deed, installment sale purchases”, and other similar arrangements whereby nonpayment of a periodic payment or nonperformance of a periodic service 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 CHARGE – Any compensation, either monetary or “in lieu of” payments, such as but not limited to utilities, upkeep, repair, or the provision of services.

TENANT – Any person having a written or verbal agreement with the owner for occupancy of a rental unit. Except as otherwise provided herein, tenant means any person who occupies and uses as their primary residence a dwelling unit furnished that person for payment of a rental charge to another.

Sec. 10-43. – Applicability and exceptions.

- (a) The provisions of this Article shall apply to all rental property dwellings, and rental units and rooming units, including rented single-family dwellings and duplexes, mobile homes manufactured homes, and rented units in owner-occupied dwellings, and including owner-occupied dwellings where the owner allows unrelated individuals to live with or otherwise occupy the dwelling with the owner.
- (b) The provisions of this Ordinance shall not apply to jails, hospitals, parish houses, manses and rectories, dwelling units in a cooperative or condominium building, hotels, motels, or facilities licensed by the State of Minnesota, nor to any dormitory owned and operated by an educational institution.

Sec. 10-44. – Registration permit required.

No person shall hereafter occupy, allow to be occupied, or rent to let another for occupancy, any rental property in the City of Bemidji dwelling, rental dwelling unit, or rental rooming unit, without first having obtained a Registration Permit or a Provisional Registration Permit from the City under the terms of this Section. Dwelling or rooming units constructed or converted to rental usage after the effective date of this Ordinance shall not be occupied for human habitation prior to inspection and issuance of a Registration Permit by the City. The payment of fees set forth in this Code Section will be a prerequisite to this

required permitting. An application for registration shall be made upon forms furnished by the City for such purpose and shall require the minimum information required under Section 10-47.

Sec. 10-45. – Resident agent required.

No Registration or ~~Provisional~~ Permit shall be issued or renewed for a non-resident owner of a rental unit unless such owner designates in writing in the permit application the name of a local resident agent who is responsible for management, maintenance and upkeep of the unit(s) and who is authorized to receive service of notice of ordinance violations, orders or process pursuant to law. The resident agent must reside within a one hour drive 50 30 miles of the corporate limits of the City of Bemidji.

Sec. 10-46. – Manner of Registration; Registration Permit Expiration and Renewal; and, First-time Rental Registration Fee Conversion. Provisional Registration-Permit.

- (a) A registration permit shall be issued annually and expire on December 31st, following the issuance therefore. Permit renewal applications for the following year, along with the required fees, shall be filed on or before November 15 of the current year. On or before October 1, the City shall mail notice of registration renewal and renewal application forms to the property owner or designated agent. The renewal application may be in such abbreviated form as deemed sufficient by the Building Official to verify current information on file concerning ownership and the rental unit(s).
- (b) For any rental permit previously issued for a three (3) year period prior to the effective date of this Ordinance, such rental permit shall expire on December 31, 2011. For any rental permit previously issued for a three (3) year period prior to the effective date of this Ordinance but due to expire after the effective date of this Ordinance and prior to December 31, 2011, such permit may be renewed and be valid through December 31, 2012. Upon receipt of a completed application for the permit required under this Article and payment of the applicable permit fee, the City will may issue a Provisional Registration Permit indicating that a Registration Permit after the rental unit has been inspected as provided for in Sections 10-52 & 10-53, has been applied for and will be issued or denied after a the rental unit(s) has been inspected for compliance with City Housing and International Property Maintenance Codes, the Greater Bemidji Area Zoning and Subdivision Code and other applicable local, state and federal regulatory provisions. A Provisional Permit authorizes continued occupancy of a rental unit in existence on the effective date of this Ordinance, pending inspection and the issuance or denial of a Registration Permit. A Provisional Permit is not a determination that the rental unit complies with code requirements.
- (c) Upon receipt of a completed renewal application form and payment of the applicable fee, the City will schedule an inspection pursuant to Section 10-53. The Building Official may elect to issue a renewal permit pending completion of an inspection, or in the opinion of the Building Official and based upon and warranted by the rental history of the registered premises, decide to issue a renewal permit and postpone an inspection until the next annual renewal or sooner as compliance issues and conditions warrant. Issuance of a Permit prior to inspection is not a determination that the rental unit complies with code requirements.

- (d) The City shall not register a rental unit or allow it to be occupied as a rental unless the permittee has paid all property taxes assessed to the property and the property is not delinquent in any other obligation to the City of Bemidji, including payment of any conversion the First-time rental registration fee in subsection (f).
- (e) Except as otherwise provided in this Article, any application for the renewal of an expired registration permit shall be processed as a new permit application and the rental unit must comply with all applicable laws.
- (f) *First-time rental registration fee Conversion*
Any rental property not currently registered pursuant to this Section on the effective date of this Ordinance ~~single-family dwelling or duplex, not currently registered pursuant to this Article on July 1, 2011,~~ shall be subject to a first-time rental registration fee at the time it is initially registered as a rental unit. The first-time rental registration fee includes the initial annual rental license fee, ~~rental conversion fee at the time it is initially registered as a rental unit. The conversion fee shall not apply to a registered renewal.~~ The payment of the first time rental registration conversion fee will be a prerequisite to the required registration and shall be in the amount set by the City Council in the City's Fee Schedule Ordinance as the same may be amended from time to time.
- (g) *Late fee*
Failure to timely file a renewal application shall result in a late fee being assessed in an amount set by the City Council in the City's Fee Schedule Ordinance, as the same may be amended from time to time.
- (h) *Owner/Agent/Manager training required:*
If required under Section 10-59 (d) , ~~prior to receiving or renewing a permit, Owners of rental dwellings, and/or their agents and managers, must attend, at a minimum, the Phase I Crime-Free Multi-housing Educational Course or similar course as approved or certified by the City Manager, as a condition of receiving or renewing a permit. The cost of attending the educational requirements under section shall be paid by the Owner, and are in addition to any permit renewal and inspection fees. For the first year following the adoption of this Ordinance, existing license owners and new applicants must attend the educational course within six (6) months of receiving or renewing their permit.~~ With the assistance of the City Manager, the City Police Department shall implement Crime-Free Education Program Course(s) and establish the program course cost, schedule of course availability, and programming content. Courses shall be available to the public on a voluntary basis as well.
- (i) *Crime-Free/Drug-Free Lease Addendum.*
All tenant leases, subject to all preemptory state and federal laws, shall contain and/or incorporate the Crime Free/Drug Free Addendum as the same is set forth in The Minnesota Crime Free Multi-Housing Program materials. The lease addendum shall be incorporated into every new lease for a tenancy beginning January 1, 2012 and all renewed leases by January 1, 2013.

Sec. 10-47. – Application for registration permit; register of occupancy.

(a) The owner of each rental unit shall make written application to the City for registration of the rental unit(s). A new owner shall be required to register units within ten (10) days after acquiring them. Application for registration shall be made upon forms furnished by the City and shall specifically set forth the following information:

- (1) The name, address and telephone number of the owner of the rental unit(s); if a partnership, the name of the partnership, and the name, address and telephone number of the managing partner; if a corporation, the name and address of the corporation, and the names and addresses of all shareholders who own ten percent (10%) or more of the corporation's stock ~~telephone number of the chief operating officer.~~
- (2) In the case of a non-resident owner, the name, address and telephone number of a designated local resident agent.
- (3) Name, address and telephone number of vendor, if the rental unit is being sold by a Contract for Deed.
- (4) The street address of each rental unit.
- (5) Number and kind types of rental units within a dwelling.
- (6) The maximum number of occupants permitted ~~per~~ for each rental unit.
- (7) At least one emergency telephone number, and address of the person authorized to make or order made repairs and/or service to the building, to provide required services necessary to protect the health, safety and welfare of the occupants or is able to contact the person so authorized.
- (8) A detailed site drawing to scale ~~site survey~~ showing designated off-street parking areas for each existing rental property unit consisting of five (5) units or less, which areas comply with the off-street parking requirements of this Article and Section 1006 of the Greater Bemidji Area Joint Planning Board Zoning Ordinance, as the same may be amended from time to time, which Section 1006 is adopted herein by reference and incorporated as if fully set forth herein.
- (9) A copy of the Crime-Free/Drug-Free Addendum incorporated into the rental unit lease.
- (10) If applicable, verification showing that the permit holder, manager and/or designated agent have completed the required Crime-Free Housing education training from any of the program(s) and/or agencies certified to conduct such training.

An incomplete application may be rejected by the City.

(b) Every permit holder, or their resident agent, shall maintain a current register of all tenants and other persons with a lawful right of occupancy to each rental unit. as well as a list of the vehicle license plate numbers of the tenants and occupants of the rental property. ~~The register shall be kept current at all times and shall be available at the rental dwelling for inspection by the City at all times. Failure to maintain a current~~

register or to allow the City inspection of the register may result in suspension of the registration permit.

- (c) The City shall be promptly notified of any change of the resident agent, and any change in the names, addresses, and other information concerning the persons listed in the last registration application filed with the City.

~~Sec. 10-48. — Registration permit expiration and Renewal Inspection.~~

- ~~(a) Provisional Permits issued under this Section shall expire when the rental unit is inspected and a Registration Permit is issued or denied. Once the rental unit is inspected and found to be conforming, a Registration Permit shall be issued for a **three (3)** year period and shall expire on the anniversary date of issuance. Renewal application forms shall be submitted to the City **60 days** prior to the expiration date of the current permit. The renewal application may be in such abbreviated form as deemed sufficient by the Building Inspector to verify current information on file concerning ownership and the rental unit(s).~~

Sec. 10-49 48. – Transferability of registration permits.

No permit shall be transferable to another person or to another rental unit without registration of such transfer with the City. Every person holding an operating valid registration permit shall give notice in writing to the City within **seventy-two (72)** hours after having transferred or otherwise disposed of a rental unit. Such notice shall include the name, address and telephone number of the new owner and, if applicable, a resident agent in control of the rental unit. The new owner or resident agent shall have **ten (10)** days to re-register the units after acquiring them. If any change in the number of rental units or in the type or occupancy as originally registered is contemplated, a new registration application and inspection is required along with payment of an additional permit fee to cover additional rental units. Failure to register transfer of ownership shall be subject to a Failure to Transfer Fee.

Sec. 10-4950. – Posting of registration.

~~Each Registration or Provisional Permit issued by the City shall be displayed in a frame with transparent cover in a conspicuous spot near the front entrance of a single unit rental dwelling, or in a public corridor, hallway or lobby of a multiple unit dwelling, and shall be visible to all residents. Only one registration need be posted for each separate apartment building. Failure to post a permit shall not be grounds for suspension or revocation of that permit, but such violation shall subject the permittee to a \$50 penalty for issuance of a new Registration Permit constitute a misdemeanor.~~

Section 10-504. – Fees.

Fees for permits, renewals, inspections, penalties, reinstatement and appeals, and conversions, if applicable, shall be in the amount set by the City Council from time to time by in the City Fee Schedule Ordinance resolution, a copy of which shall be on file in the offices of the City Clerk and Building Inspector. The permit fee is non-refundable in the event of discontinuance of use, sale, or the revocation or suspension of a permit.

Whenever any person fails to pay the registration fees or other fees associated with this Article, the City may assess these fees against the property for which they were assessed and such assessed fees shall be certified as other taxes are certified.

Sec. 10-512. – Registration standards and conditions.

The following minimum standards and conditions shall be met in order to hold a Registration Permit. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a Registration Permit or Provisional Registration Permit.

- (1) Permit holder shall have paid the required permit and inspection fee(s);
- (2) Rental Units shall meet all off-street parking requirements.
- (3) Rental units shall not exceed the maximum number of rental units permitted by the Zoning Code;
- (4) The rental unit shall not be under condemnation as hazardous or unfit for human habitation;
- (5) Every rental unit shall be maintained in accordance with the minimum standards set forth in the applicable codes adopted by the City including current Housing Code; Property Maintenance Code; the Fire Code adopted in Chapter 16 of the City Code; the 2006 International Building Code and the 2006 International Residential Code, as the same may be amended from time to time, as adopted in Article I of this chapter and in a manner so as to not create a public nuisance. No Rental Registration Permit may be issued unless each rental unit for which it is issued meets all minimum applicable housing, building, fire, and zoning standards.
- (6) All single-family dwellings and duplexes that were unlicensed on the effective date of this Ordinance and subsequently registered or converted to registered rental unit(s), shall provide the off-street parking spaces required under this Article. The number of required off-street parking spaces shall be determined by the City Building Official at the time of registration.

All rental units registered on the effective date of this Ordinance may continue to be registered even though the property does not conform to the off-street parking requirements of this Section. However, if the number of bedrooms, or number of rooms occupied as bedrooms, is increased, the off-street parking requirements of this Section shall apply to the entire registered property. If the registration for the nonconforming rental is revoked or lapses for any period of time, all nonconforming use rights related to off-street parking requirements shall terminate.

Sec. 10-523. – Inspections; Enforcement generally of registered premises.

The City Building inspection Department, with the assistance of the planning Police and Fire Departments personnel, shall make inspections necessary to the enforcement of this Article. The City Building Official Inspector shall adopt a policy with guidelines for the systematic inspection and reinspection of all rental units and priorities for the use of scarce

available inspection resources. Guidelines shall be based upon the following factors and any other factors which promote an efficient inspection program:

- (1) Receipt of a completed renewal or new rental application form and payment of the applicable fee(s).
- (2) Property inspections shall be conducted on each rental unit at least every two (2) years. Rentals that require three (3) or more inspections to complete a compliance order, or have substantiated complaints, will move to a one (1) year inspection schedule until brought into compliance and prove that compliance is maintained. Inspection fees will be applied per the City's Fee Schedule Ordinance as the same may be amended from time to time.
- (3) Property identified as having an excessive number of housing code violations or a history of noncompliance or slow compliance with housing inspection orders. If excessive code violations exist for a rental property, the Building Official will be required to research all rental properties held by that person to determine if immediate inspections are required for any additional properties.
- (4) Geographic distribution and concentration of rental units or dwellings.
- (5) Rental dwellings with delinquent property taxes.
- (6) Rental units for which no Registration Permit or ~~Provisional Registration Permit~~ has been applied.
- (7) Sales of rental property.
- (8) Rental units for which a written complaint is received.
- (9) Reason to believe a rental ordinance violation exists.

The Building Official may elect to issue a renewal permit pending completion of an inspection, or in the opinion of the Building Official and based upon and warranted by the rental history of the registered premises, decide to issue a renewal permit and postpone an inspection until the next renewal or sooner as compliance issues and conditions warrant. Issuance of a Permit prior to inspection is not a determination that the rental unit complies with code requirements.

~~Every rental unit will be subject to reinspectioned after a the annual renewal notice is sent by the City a pplication is filed to determine if it still conforms to all applicable code standards. No Provisional or Registration Permit shall be issued or renewed unless the owner or resident agent agrees in writing in the application to permit access for inspection as required under this Ordinance.~~

In order to compel the compliance with the registration requirements, the Building Official or designated staff will have the authority to enter any structure, at reasonable times and upon five (5) days written notice to the property owner(s), to determine if said structure is operated as a rental property as defined in Section 10-42 or to enforce the International Property Maintenance Code, or both. In addition to those cases where emergency

conditions endangering a person or property exist, where either the Bemidji Police Department or the Bemidji Fire Department has responded to a property and/or structure, the Building Official or designated staff will have the authority to enter any such property and/or structure at any time by or at the request of the Police Department or the Fire Department to enforce any provisions of this Article.

Sec. 10-534. – Inspection access.

All premises registered or ~~holding a Provisional Registration Permit~~ pursuant to this Ordinance shall be made available for inspection by the City at any reasonable time. ~~Unless impractical, The City shall provide reasonable advance notice to the occupant, and owner, or and to the resident agent in the case of a non-resident owner. If any owner, occupant or other person in charge of a rental unit fails or refuses to permit free access and entry to the premises for an inspection, the City may seek a Court Order (administrative search warrant) authorizing such inspection.~~ If denied access at any reasonable time while attempting to inspect, the City also may suspend or revoke the Registration or ~~Provisional Permit~~ upon written notice to the occupant, owner and resident agent, and subject to the right of appeal as provided in Section 10-601. The suspension or revocation shall remain in effect until inspection has been permitted and any violations found are corrected.

Sec. 10-55. – Issuance of registration permit.

~~When, upon completion of an inspection of a rental dwelling and rental units therein, the Building Inspector finds that the minimum standards for registration set forth in this Ordinance have been met, a Registration Permit may be issued.~~

Sec. 10-54. – Determination of noncompliance; notice.

- (a) Whenever an inspection reveals that any rental unit(s) fails to meet the registration standards of this Ordinance, the Building Inspector shall mail give a Notice and Compliance Order to the owner and ~~or~~ resident agent, and to the occupant as the case may require, specifying the reasons why the rental unit(s) fails to meet the registration standards and, shall include a copy of the inspection report if applicable. The Order shall set forth the violations and order the owner or resident agent, or the occupant as the case may require, to correct such violations. The Compliance Order shall:
- (1) Be in writing;
 - (2) Describe the location and nature of the violations;
 - (3) Establish a reasonable time for correction of such violations, not to exceed 90 days, unless such time is extended by agreement with the Building Official; and
 - (4) Include information describing how an appeal may be filed.
- (b) A copy of the Compliance Order shall be prominently posted on the rental unit. Every occupant of the rental unit shall give the owner or resident agent or their contractor access to the rental unit at all reasonable times for the making of repairs or alterations as are necessary to effect compliance with an Order.

- (c) At the end of the period allowed for the correction of violations specified in the Compliance Order, the premises shall be reinspected to determine whether corrective actions have been sufficient to bring the violation(s) into compliance. If the premises are in compliance at the time of the reinspection, a Registration Permit may be issued.

Sec. 10-557. – Emergency cases; summary action.

Whenever a violation of this Ordinance poses imminent peril to life, health, or property, the Building Official ~~Inspector~~ may require immediate compliance, and if necessary take appropriate action to protect that life, health or property, including declaration that the dwelling, ~~or dwelling unit, or rooming unit~~ is a hazardous building and unfit for human habitation and treated consistent with the provisions of the housing code and Minn. Stat. Sec. 463.15, 463.16 relating to hazardous buildings, ~~and to close off individual rental units or such areas of the rental dwelling as necessary.~~ Notice of summary condemnation shall be posted at the rental unit(s) or areas affected and shall indicate the units or areas affected. No person shall remove the posted notice other than the Building Official or their designated representative.

Sec. 10-568. – Reinspection. [*moved to 10-56(c)]

Trash Removal for Rental Properties

- (a) Rental properties must have regularly scheduled weekly trash pick-up.
- (b) If the trash has not been removed within seven (7) days of the normally scheduled pick-up, the trash will be removed under emergency abatement procedures.
- (c) If the lack of trash removal becomes a recurring problem, refuse service will be authorized by the City and will be assessed on the property's utility bill.

Sec. 10-59. – Conduct on Registered Premises.

- (a) For purposes of this section, a rental unit ~~premises~~ is disorderly at which any of the following activities occur and result in the issuance of a criminal and/or administrative citation or the filing of formal criminal charges:
- (1) Conduct which constitutes a violation of Chapters 6 and 14 of the Bemidji City Code relating to public nuisances.
 - (2) Conduct which constitutes a violation of Section 18-32 of the Bemidji City Code relating to noisy parties and other unnecessary and loud noises.
 - (3) Conduct which constitutes a violation of laws relating to the possession of controlled substances, as defined in Minnesota Statutes Section 152.01 et seq.
 - (4) Conduct which constitutes a violation of Section 18-31 of the Bemidji City Code relating to disorderly conduct or creating a breach of the peace or violation of laws relating to disorderly conduct as defined in Minnesota statutes 609.72.

- (5) Conduct which constitutes a violation of Chapter 4 of the Bemidji City Code relating to minors possessing or consuming alcohol, and relating to providing alcohol to minors, or violation of Minnesota Statutes, Sections 340A.701, 340A.702 or 340A.703, relating to the sale of intoxicating liquor.
 - (6) Conduct relating to prostitution or indecent exposure, or a violation of laws relating to prostitution or acts related to prostitution as defined in Minnesota Statutes, Section 609.321, Subdivision 9.
 - (7) Conduct which constitutes a violation of laws relating to unlawful use or possession of a firearm as defined in Minnesota Statutes, Section 609.66 et seq., on the registered premises.
 - (8) Conduct which constitutes a violation of laws relating to assaults, or Section 609.221 et seq., of the Minnesota Statutes relating to assaults, including domestic assaults, as defined in Minnesota Statutes, Section 609.224.
 - (9) Conduct which constitutes a violation of Section 609.595 of the Minnesota Statutes relating to criminal damage to property.
 - (10) Conduct which constitutes a violation of Section 609.713 of the Minnesota Statutes relating to terroristic threats.
- (b) The City Building Official manager or their designee shall be responsible for administration of this section. The authority to take any action authorized under this section may be delegated to the City Building Official's manager's authorized designee or designees.
 - (c) Upon determination by the City Building Official manager or their designee that a registered rental unit was used in a disorderly manner, as described in subsection (a) of this section, the City Building Official manager or their designee, shall give notice to the registration holder and the renters of the rental unit affected, of the violation and direct the registration holder to take steps to prevent further violations.

Notwithstanding the non-issuance of a citation, an incident of disorderly use of a registered rental unit shall result in a notice being sent by the City to the registration holder of the incident and of the police being called to the rental unit.

- (d) If ~~another~~ second instance of disorderly use of the same registered rental unit occurs within twelve (12) months of an incident for which a notice in subsection (c) of this section was given, the City Building Official manager, or their designee, shall notify the registration holder and the renters of the affected unit of the violation and shall require the registration holder to submit a written report of the actions taken, and actions proposed to be taken, by the registration holder to prevent further disorderly use of the premises. This report shall be submitted to the City Building Official manager, or their authorized designee, within ~~five (5)~~ ten (10) business days of receipt of the notice of disorderly use of the premises, and shall detail all actions taken by the registration holder in response to all notices of disorderly use of the premises within the preceding twelve (12) months.

Upon the occurrence of a second instance of disorderly use within twelve (12) months, the registration holder or their agent or manager also shall be required to attend and complete the Crime Free Education Course described in Section 10.46(h)

of this Ordinance. The Course shall be completed prior to the end of the then current permit cycle, and proof of attendance and verification of Course completion shall be submitted with the annual permit renewal application as described in Section 10.47(a)(10). Multiple unit ownership notwithstanding, no individual registration holder, agent or manager shall be required to attend and complete more than one (1) Course in any one (1) calendar year (January 1 to December 31).

- (e) If a third instance of disorderly use of the rental unit registered premises occurs within twelve (12) months after any two (2) previous instances of disorderly use for which notices were given to the registration holder and the cited tenant(s) renters of the affected unit, pursuant to this section, the rental dwelling license for the rental unit may be denied, revoked, suspended or not renewed if the actions proposed to be undertaken by permittee pursuant to subsection (d) of this section are inadequate and/or are not being diligently pursued. An action to deny, revoke, suspend or not renew a permit under this section may ~~shall~~ be initiated by the City Building Official ~~manager~~, or their designee, pursuant to the procedures set out in section 10-60 of this Article.
- (f) A determination that the registered premises have been used in a disorderly manner as described in subsection (a) of this section shall be made upon a fair preponderance of the evidence to support such a determination. It shall ~~not~~ be necessary that criminal charges be brought and/or an administrative citation be served in order to support a determination of disorderly use; ~~but~~ ~~the~~ incident must have resulted in the police being called to the rental unit registered premises and a police report being prepared.
- (g) For purposes of this chapter, "disorderly use of the rental unit registered premises" shall mean disorderly use in the particular rental unit by the tenants renters, occupants or guests or conduct by the tenants which constitutes disorderly use anywhere on the property of the apartment building or home or mobile home park in which the rental unit is situated.
- (h) No adverse permit action shall be imposed where the instance of disorderly use of the registered rental unit occurred during the pendency of eviction proceedings (unlawful detainer), or within thirty (30) days of notice given by the permittee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall ~~not~~ be a bar to adverse permit action unless ~~however,~~ if the eviction proceedings are not being diligently pursued by the permittee. Further, an action to deny, revoke, suspend or not renew a permit based upon violations of this section may be postponed or discontinued at any time if it appears that the permittee has taken appropriate measures which will prevent further instances of disorderly use.
- (i) Notwithstanding any other language of this section to the contrary, conduct which otherwise constitutes disorderly use for purposes of this section will not be deemed to be disorderly use for purposes of this section if the police discovered domestic abuse or other similar conduct as a result of a call to ~~by a tenant~~ of the rental unit in which the disorderly use is occurring, or if the use is occurring outside the specific rental unit, by a tenant of the rental unit which would have otherwise received notice of disorderly use pursuant to the terms of this section.
- (j) No Retaliation. No permittee or resident agent will evict, threaten or evict or take any other punitive action against any tenant by reason of good faith calls made by such

tenant to enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences or public safety concerns. This section will not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations or lease terms other than a prohibition against contacting enforcement agencies.

**Sec. 10-5957. – Permit Suspension, Revocation, Denial and Non-Renewal.
Reinspection noncompliance.**

- (a) The Building Official may revoke, suspend, deny or decline to renew any registration permit issued under this section upon any of the following grounds.
 - (1) False statements on any application or other information or report required by this Article to be given by the applicant or permittee.
 - (2) Failure to pay any application, penalty, reinspection or reinstatement fee required by this Article and City Council Fee Ordinance or resolution.
 - (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - (4) Any other violation of this Article.
- (b) ~~If upon reinspection it is determined that the violation(s) has or have not been corrected, the Building Inspector may deny, refuse to renew, revoke or suspend the Registration Permit or Provisional Registration Permit. The Building Official may, for good cause, authorize additional time to correct the defects that cause the violation.~~
- (c) If the defects create an imminent hazard to health or safety, the Building Official may proceed immediately for denial, non-renewal, revocation, or suspension of a permit.
- (d) A decision to revoke, suspend, deny or not renew a permit will be preceded by written notice to the permittee or resident agent of the alleged grounds therefore and the applicant or permittee will be given an opportunity for a hearing before the Housing Appeals Board before final action to revoke, suspend, deny or not renew a permit. The notice shall include information describing how an appeal may be filed.
- (e) Upon a decision to revoke, deny or not renew a permit, no new application for the same rental unit(s) will be accepted for a period of time specified in the Building Official's written decision, not exceeding one year. Such new applications must be accompanied by a reinstatement fee, in addition to all other fees required by this Article.
- (f) A written decision to revoke, suspend, deny or not renew a permit or application will specify the rental unit(s), if more than one occur together in a dwelling structure, to which it applies. Written notice of a suspension, revocation, non-renewal or denial of a permit and the reasons therefore shall be mailed to the owner or resident agent and posted in a conspicuous place on the premises, and both notices shall order the vacation of the affected rental units within a reasonable time. Thereafter, and until a permit is reissued or reinstated, no rental units becoming vacant as specified may be relet or occupied. Revocation, suspension or non-renewal of a permit will not excuse the owner from compliance with all terms of this Article for as long as any units in the dwelling structure are occupied. Failure to comply with all terms of this Article during the term of revocation, suspension or non-renewal is a misdemeanor and grounds for

- extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the permit, notwithstanding any limitations on the period of suspension, revocation or non-renewal specified in the Building Official's written decision or the provisions of paragraph (d) of this subdivision.
- (g) ~~In the event the permit is suspended or revoked, it shall be unlawful for the owner or resident agent to thereafter permit any new occupancy of vacant or thereafter vacated rental units until such time as a valid permit has been issued. Rental units within a structure which are in compliance with the registration standards may continue on condition that units and other portions of the dwelling in non-compliance do not create an immediate hazard to the health and safety of the persons in the occupied units.~~
- (h) A reinstatement fee will be charged to the owner of a rental unit the registration of which has been revoked. Before a registration permit is re-issued any violations or deficiencies must be corrected prior to inspection and any outstanding fees must be paid in full.

Sec. 10-6058. – Right of Appeal.

- (a) Any person aggrieved by a decision of the Building Official, by a Compliance Order, or a decision to deny, suspend, revoke or not renew a permit, may appeal to the Housing Appeals Board by filing a written notice of appeal with the Building Inspectors Office within ten (10) business days after receipt of such order or notice. The appeal shall contain a statement setting forth the grounds for the appeal and be accompanied by the applicable fee. The timely filing of a written appeal shall stay all proceedings until the appeals process is completed, unless such stay would cause imminent peril to life, health or property.
- (b) The Housing Appeals Board shall meet as needed, or at the call of the chair, to hear appeals. A hearing shall be held within **30 days** after filing of an appeal. The City Clerk shall provide the appellant **five (5) business days** written notice of the time and place of the hearing. If necessary to do so, the Board may postpone a hearing to a later date, not to exceed **60 days** after the filing of an appeal.
- (c) The Board shall hear all relevant evidence and argument. The Board may admit evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Housing Appeals Board will give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and will issue a decision to deny, not renew, suspend or revoke a permit only upon written findings. The Board shall tape record the hearing and keep a record of documentary evidence submitted.
- (d) The Board shall issue its decision in writing **fifteen (15) days** after the close of the hearing. The decision shall either deny or uphold the decision of the Building Inspector Official or may grant a Registration Permit upon such terms and conditions as the Board deems necessary to accomplish the purposes of this Article Section. A copy of the decision shall be mailed to the appellant. Notice of the final decision also shall be mailed to each occupant.

(e) The decision of the Board may be appealed by filing an appeal or appropriate writ with the Any further appeals shall be made directly to Beltrami County District Court within fifteen (15) days after the issuance of the Board's written decision.

Sec. 10-6459. – Vacation.

When an application for a Registration Permit has been denied, or a Registration or Provisional Permit has been revoked, suspended, or not renewed, the City Building Official shall order the dwelling or the affected dwelling units therein vacated, giving tenants a reasonable time to arrange new housing and to move their possessions.

Sec. 10-6258. – Administrative modification.

Whenever there are practical difficulties or unnecessary hardships in carrying out the strict enforcement of this Ordinance, the Building ~~Inspector~~ Official, and similarly the Housing Appeals Board, may waive or modify compliance standards, providing there is otherwise substantial compliance with these provisions, and such waiver or modification will not be detrimental to the public health and safety of the occupants of the rental unit(s) and, without impairing the intent of this Ordinance.

Sec. 10-6359. – Notices.

Whenever a notice is required to be sent or served under this Article Section, notice shall be deemed sufficient if sent by first class mail to the owner or resident agent at the address(es) specified in the last permit application filed with the City, and said notice shall also be posted on the rental unit or dwelling.

Sec. 10-6460. – Applicable Laws Remedies not exclusive.

Registration Permits will be subject to all of the ordinances of the City of Bemidji and the State of Minnesota relating to rental dwellings, and this Article shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law. The remedies provided in this Ordinance are not exclusive. They are in addition to and do not supersede or preempt other remedies such as injunctive relief, hazardous building condemnation, elimination of public health or safety hazards under Minnesota Statutes Chapter 429, or criminal charges for violation of substantive provisions of any City Code or State Code Law relating to housing maintenance, health, fire safety, building, or zoning. Further, the remedies in this Ordinance do not supersede or affect the legal rights or remedies of tenants provided under State Law or other Code provisions.

Sec. 10-61. – Severability.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article.

Sec. 10-62. – Violations and penalties.

(a) Violations of the provisions of this Section will be enforced by any one, all or any combination of the following penalties or remedies:

- (1) ~~A violation of any person who allows to be occupied or rents to another any rental unit, without a Provisional or Registration Permit is guilty of a misdemeanor, and any person who shall violate any of the terms of this Section Article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Sec. 1-13 of the Bemidji City Code.~~
- (2) Violations may be enforced as administrative offenses pursuant to Sec. 1-14 of the Bemidji City Code.
- (3) This section may also be enforced by injunction, abatement, mandamus or any other appropriate remedy in any court of competent jurisdiction.

(b) Each violation of this Ordinance shall constitute a separate offense.

SECTION 2. This Ordinance shall become effective thirty (30) days after its passage and publication according to law.

Ayes:
Nays:
Absent:

First Reading: May 16, 2011
Second Reading: June 6, 2011, August 1, 2011
Final Reading:

ATTEST:

APPROVED:

Kay M. Murphy, City Clerk

David A. Larson, Mayor

CITY OF BEMIDJI

ORDINANCE NO. , 3rd SERIES

AN ORDINANCE AMENDING THE BEMIDJI CITY CODE,
ADOPTING AN AMENDED 2011 FEE SCHEDULE

THE CITY OF BEMIDJI DOES ORDAIN:

Section 1. Amended Fee Schedule. The collection of fees shall be in accordance with the 2011 Fee Schedule adopted by Ordinance No. 60, 3rd Series, is hereby amended to add and/or delete fees as indicated on Attachment A.

Section 2. Publication of Ordinance. This Ordinance shall become effective 30 days after its passage and due publication thereof.

Ayes:

Nays:

Absent:

First Reading: May 16, 2011

Second Reading: July 6, 2011, August 1, 2011

Final Reading:

ATTEST:

APPROVED:

Kay M. Murphy, City Clerk

David A. Larson, Mayor



ATTACHMENT A

Rental Property -Inspection Business License/Permit	Proposed Fee
1 – Unit <u>Residential</u>	\$150—first two inspections \$100/annual
2-4 Units <u>Duplex Residential</u>	\$175—first two inspections \$125/annual
<u>Multi-Unit Residential Buildings</u>	\$200 plus \$25 per unit
3-12 Units 13-24 Units 25 Units & Up	\$150 per building/annual \$200 per building/annual \$300 per building/annual
5-12 Units	\$225 for the first two insp \$50 each add'l inspection
13-20 Units	\$240 for the first two insp \$50 each add'l inspection
21+ Units	\$250—first two insp \$50/each add'l insp
Additional Rental Inspections Single Unit & Duplex Units Re-Inspection Fee for third and each additional inspection required for compliance	\$50 each \$100 each
Complaint-based Inspection	\$50.00/each \$100 with validated violation
Late Rental Registration Penalty	\$100.00/each
Rental Appeal	\$200.00/each
Reinstatement Fee of Suspended Rental License	\$200.00/each \$500 each
First Time Rental Registration Fee	\$500
Failure to Transfer Ownership Penalty	\$100
Operating without a License Penalty	\$500

ADD FOLLOWING TO ADMINISTRATIVE CITATION FINES:

OFFENSE		FINE
BUILDING & HOUSING VIOLATIONS:		
Failure to License a Rental	Sec.	\$500.00
Failure to Transfer a Rental	Sec.	\$100.00
Fire prevention violations (Smoke/CO Detectors)	Sec.	\$25.00
Building Code Violations	Chapter 10	\$100.00
Housing Code Violations	Sec.	\$100.00
MISCELLANEOUS:		
Maintenance of private property	Sec. 14.32	\$60.00
Junk cars (unlicensed vehicle), household furniture & appliances stored outdoors	Sec. 14.34	\$60.00
House number missing	PM 304.3	\$35.00

FRANCHISE FEES	
Electric Franchise Fees:	3% monthly gross revenues
Residential (A residential customer having a second, separate off-peak meter shall be subject to only one meter fee.)	\$1.00 monthly per meter
Sm C & I - Non-Demand	\$5.00 monthly per meter
Sm C & I - Demand	\$5.00 monthly per meter
Large C & I	\$40.00 monthly per meter
Public Street Lighting	\$5.00 monthly per meter
Muni Pumping - Non-Demand	\$5.00 monthly per meter
Muni Pumping - Demand	\$5.00 monthly per meter
Gas Franchise Fees:	3% monthly gross revenues
Residential	\$1.00 monthly per meter
Commercial Firm	\$5.00 monthly per meter
Commercial Interruptible	\$5.00 monthly per meter
Industrial Firm	\$40.00 monthly per meter
Industrial Interruptible	\$40.00 monthly per meter
Transportation	\$40.00 monthly per meter