

BARNESVILLE CITY COUNCIL
Regular Meeting
August 11, 2003

Mayor Gene Prim opened this regular meeting of the Barnesville City Council at 7:00 p.m. with members Chad Hagen, Roger Cooper, Larry Davis Jr., Charles Martinson, Kim Simonsen and Jerry Ames present. Also present were City Administrator Ray Miller, EDA Director Karen Lauer, Main Street Director Brenda Brand, General Manager Gerald Dow, Finance Director Brian Jacobson, department heads, Ken Bauer, Bob Smith, Minutes Recorders Angie Ernst and Leslie Brenner, and Karen Carpenter of the Record Review.

08-11-03-01 Motion by Mr. Cooper and second by Mr. Martinson to approve the agenda with the addition of a discussion on Bob Smith's deck. Carried.

08-11-03-02 Motion by Mr. Simonsen and second by Mr. Martinson to approve the minutes from the July 14, 2003 regular meeting with the removal of Jerry Ames from the second motion and the addition of Kim Simonsen to the motion and to approve the minutes from the July 21, 2003 Special meeting. Carried.

Ken Bauer from the Barnesville School Board stated that he was pleased with the prompt work by the city departments when the Shamrock (antique store) building was demolished last week. He requested that the city workers assist with the demolition of the houses on school property.

08-11-03-03 Motion by Mr. Simonsen and second by Mr. Martinson to allow the city to help with demolition of the school property houses. Carried.

Bob Smith was present to discuss his building permit for a deck on the front of his home located on Fourth Avenue NE. He stated that he was not given all of the paperwork needed for the permit at the time of application and assumed it was okay to go ahead with construction since he had the permit. Smith then proceeded to start building his deck and was stopped while in construction of the deck by building inspector Brian Ellefson because he was not in compliance with the required front yard setback. Mr. Smith felt that leaving his deck unfinished could be a hazard if someone would step on the deck anticipating it to be a stable landing and could get hurt if this was not cleared up promptly. Mr. Smith had received a permit for the same structure and did not build it before the permit expired. Since that time variances for setback guidelines were changed. Council discussed that they would like to have variances that would allow improvements to be made to older homes that do not always fit guidelines. The matter was sent for consideration to the Planning Commission.

Department head reports were presented with a discussion on making City Hall more easily handicap accessible and to provide a handicapped parking spot.

08-11-03-04 Motion by Mr. Simonsen and second by Mr. Martinson to approve adding a handicapped parking spot and help make City Hall more handicap accessible. Carried.

Karen Lauer recognized City Departments for the help given on the demolition of the old antique store building on Front Street.

The planning commission had determined that CM Repair was not in compliance with allowed C-1 zone uses. Mr. Davis and Mr. Ames will talk to owner Mr. Mortensen to try to get him in compliance with the C-1 zone regulations.

08-11-03-05 Motion by Mr. Simonsen and second by Mr. Ames to approve the first reading of the following ordinance and that Mr. Miller bring back to the September Council meeting a comparison of permit fees for other cities. Carried.

Ordinance 2003-17
An Ordinance Amending Ordinance 2002-9

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 2002-9, adopting the Minnesota State Building Code: and

WHEREAS, Section 2. Permits and Fees, has been identified as needing updating or modification:

NOW THEREFORE, Ordinance No. 2002-9 is hereby amended as follows:

PERMITS AND FEES

EXTRACTED FROM THE 1985, 1988 AND 1991 UNIFORM BUILDING CODE
TABLE NO. 3-A-BUILDING PERMIT FEES

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$15.00
\$501.00 to \$2,000.00	\$15.00 for the first \$500.00 plus \$2.00 for each additional \$100.00 of fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$45.00 for the first \$2,000.00 plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$252.00 for the first \$25,000.00 plus \$6.50 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$414.50 for the first \$50,000.00 plus \$4.50 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$639.50 for the first \$100,000.00 plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,039.50 for the first \$500,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$3,539.50 for the first \$1,000,000.00 plus \$2.00 for

each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

- 1. Inspections outside of normal business hours \$30.00 per hour
(minimum charge-two hours)
- 2. Reinspection fees assessed under provisions of
Section 305 (g)\$30.00 per hour
- 3. Inspections for which no fee is specifically indicated\$30.00 per hour
(minimum charge-one-half hour)
- 4. Additional plan review required by changes, additions
or revisions to approved plans\$30.00 per hour
(minimum charge - one-half hour)

MISCELLANEOUS FEES

Mfg. Bldgs., Houses moved in, Swimming Pools & Signs -- by value above.
 Moving Permits (to be obtained by Licensed Mover) ---- \$50.00
 Demolition Permits (Houses & detached buildings) ----- \$50.00

STATE SURCHARGE FEE

(applies to all permits except the moving permit and demolition permit)

The State Of Minnesota surcharge as per law is .0005 per thousand (\$0.50 per \$1,000) to \$1,000.000.00.

THERE ARE NO EXEMPTIONS FOR PERMIT FEES OR SURCHARGES

08-11-03-06 Motion by Mr. Simonsen and second by Mr. Ames to approve the first reading of the following ordinance. Carried.

ORDINANCE NO. 2003-5

An Ordinance Amending Ordinance 1994-9, City of Barnesville Zoning Ordinance

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 1994-9, a zoning ordinance for the City of Barnesville; and

WHEREAS, several sections have been identified as needing updating or modification:

NOW THEREFORE, Ordinance No. 1994-9 is hereby amended as follows:

**SECTION 8.00
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

8.01 Purpose: R-1, the Single-Family residential District, is designated for low density single-

family residences and to provide certain private and public facilities and services that are compatible with the neighborhood.

8.02 Permitted Uses:

- a. Agriculture (*See Section 26.00*)
- b. Single-Family Dwellings
- c. Public and Private Schools
- d. Public Parks & Playgrounds
- e. Essential Services
- f. Accessory Uses (*See Section 28.00*)
- g. Day care facilities serving 12 or fewer persons, residential care facilities serving 6 or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.
- h. Manufactured Housing (*See Section 20.00*)

8.03 Conditional Uses:

- a. Cemeteries
- b. Home Occupations (*See Section 18.01*)
- c. Non-Profit Recreational Uses
- d. Nursery Schools
- e. Hospitals and Clinics for Humans
- f. Public Utility Buildings
- g. Water Recreation & Storage
- h. Fire Stations
- i. Municipal Buildings and Libraries
- j. Two Family Dwellings
- k. Planned Unit Residential Projects
- l. Greenhouses
- m. Private Schools
- n. Nursing Homes
- p. Churches
- ~~q. Second Garages~~
- q. *Bed and Breakfast Facilities (See Section 18.02)*

8.04 Yard and Lot Requirements:

	<u>One Family</u>	All <u>Other Uses</u>	<u>Accessory Structures</u>
Minimum Lot Area (sq. ft.)	7200	7200	

8.04 Yard and Lot Requirements (Continued):

	<u>One Family</u>	All <u>Other Uses</u>	<u>Accessory Structures</u>
Minimum Lot Width at Setback Line (ft.)	60	60	

Minimum Lot Depth (ft.)	120	120	
Minimum Rear Yard Setback (ft.)	25	25	[2]
Minimum Front Yard Setback (ft.)	25	25	25
Minimum Side Yard Setback (ft.)	[1]	[1]	5
Maximum Lot Coverage	35%	35%	

[1] 10% of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of twelve (12) feet from the property line.

[2] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten (10) feet is required if there is a utility easement.

8.05 Garage Space:

All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.

8.06 Permitted Intrusions Into Front Yards:

Uncovered porches and platforms which do not extend above the floor level of the first floor, provided, that they may extend eight feet into the front yard, but in no case will the remaining front yard set be less than 15 feet.

08-11-03-07 Motion by Mr. Simonsen and second by Mr. Ames to approve the first reading of the following ordinance. Carried.

ORDINANCE NO. 2003-6

An Ordinance Amending Ordinance 1994-9, City of Barnesville Zoning Ordinance

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 1994-9, a zoning ordinance for the City of Barnesville; and

WHEREAS, several sections have been identified as needing updating or modification:

NOW THEREFORE, Ordinance No. 1994-9 is hereby amended as follows:

**SECTION 9.00
R-2 URBAN RESIDENTIAL DISTRICT**

9.01 Purpose: R-2, the Urban District, is designated for land that is presently developed in

predominately urban residential lots. The purpose of this district is to permit the continuation and limited expansion of the more densely populated, established sections of the city.

9.02 Permitted Uses:

- a. Agriculture (*See Section 26.00*)
- b. Single-Family Dwellings
- c. Two-Family Dwellings
- d. Public & Private Schools
- e. Public Parks & Playgrounds
- f. Essential Services
- g. Accessory Uses (*See Section 28.00*)
- h. Day care facilities serving 12 or fewer persons, residential care facilities serving 6 or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.
- i. Manufactured Housing (*See Section 20.00*)

9.03 Conditional Uses:

- a. Cemeteries
- b. Home Occupations (*See Section 18.01*)
- c. Non-Profit Recreational Uses
- d. Nursery Schools
- e. Nursing Homes
- f. Hospitals & Clinics for Humans
- g. Public Utility buildings
- h. Fire Stations
- i. Funeral Homes
- j. Water Recreation & Water Storage
- k. Municipal Buildings & Libraries
- ~~l. Multiple Family Dwellings~~
- l. *Bed and Breakfast Facilities (See Section 18.02)*
- m. Planned Unit Residential Projects (*See Section 19.00*)
- ~~n. Mobile Home Parks~~
- ~~o. Neighborhood Commercial~~
- n p. Residential Facility for 7 or More Persons
- o q. Churches

9.04 Yard and Lot Requirements:

	<u>One</u> <u>Family</u>	<u>Two</u> <u>Family</u>	<u>Accessory</u> <u>Structures</u>
Minimum Lot Area	6,000	6,000	
Minimum Lot Width			

at Setback Line (ft.)	50	50	
Minimum Lot Depth (ft.)	120	120	
Minimum Rear Yard Setback (ft.)	25	25	[3]
Minimum Front Yard Setback (ft.)	[1]	[1]	25
Minimum Side Yard Setback (ft.)	[2]	[2]	5
Maximum Lot Coverage	35%	35%	

[1] Twenty-five (25) feet from the property line except on residential streets where the right-of-way is one hundred (100) feet, in which case the setback shall be seventeen and one half (17.5) feet from the property line.

[2] 10% of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of twelve (12) feet from the property line.

[3] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten (10) feet is required if there is a utility easement.

9.05 Garage Space:

All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.

9.06 Permitted Intrusions Into Front Yards:

Uncovered porches and platforms which do not extend above the floor level of the first floor, provided, that they may extend eight feet into the front yard, but in no case will the remaining front yard set be less than 15 feet.

08-11-03-08 Motion by Mr. Davis and second by Mr. Hagen to approve the first reading of the following Ordinance. Carried.

ORDINANCE NO. 2003-8

An Ordinance Amending Ordinance 1994-9, City of Barnesville Zoning Ordinance

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 1994-9, a zoning ordinance for the City of Barnesville; and

WHEREAS, several sections have been identified as needing updating or modification:

NOW THEREFORE, Ordinance No. 1994-9 is hereby amended as follows:

**SECTION 16.00
CONSERVATION DISTRICT**

16.01 Purpose: SC-1, the Conservation District is designated to provide for uses in environmentally sensitive areas. The purpose of this district is to prevent development of land that is unsuitable for development due to periodic flooding or wetland designation, and to regulate the intensity of the land use in those areas of the SC-1 District that are suitable for development. All uses located in the SC-1 District (or any other District) that are also within the boundaries of a designated wetland, determined according to the Wetland Conservation Act of 1991, must be approved by the Board of Adjustment and the Wetlands Conservation District Zoning Administrator.

16.02 Permitted Uses:

- a. Agriculture
- b. Public Parks & Playgrounds
- c. Essential Services
- d. Accessory Uses

16.03 Conditional Uses:

- ~~a. Single-Family Dwellings~~
- ~~b. Home Occupations~~
- a e. Water Recreation & Water Storage
- b d. Golf Courses & Country Clubs
- ~~e. Hunting Preserves~~
- c f. Sewage Treatment
- d g. Public Utility Buildings

~~16.04 Yard and Lot Requirements:~~

	All	Accessory	
	One Family	Other Uses	Structures
Minimum Lot Area (sq. ft.)	7000	7000	
Minimum Lot Width			
 at Setback Line (ft.)	60	60	
Minimum Lot Depth (ft.)	120	120	
Minimum Rear Yard Setback (ft.)	25	25	[2]
Minimum Front Yard Setback (ft.)	25	25	25
Minimum Side Yard Setback (ft.)	[1]	[1]	5
Maximum Lot Coverage	35%	35%	

~~[1] 10% of lot width at front yard setback. Sideyard setback on corner lots shall be a minimum of twelve (12) feet from the property line.~~

~~[2] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the~~

~~31~~

~~minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right of way. A setback of ten (10) feet is required if there is a utility easement.~~

~~16.05 Accessory Uses and Buildings Permitted in the SC-1 District:~~

~~a. Home occupations:~~

~~b. Garage space: All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.~~

~~c. Storage buildings: These structures are to be used exclusively for the storage of household, yard, and related supplies and equipment.~~

08-11-03-09 Motion by Mr. Ames and second by Mr. Davis to approve the first reading of the following ordinance. Carried.

ORDINANCE 2003-9

An Ordinance Amending Ordinance 1997-2, City of Barnesville Subdivision Ordinance

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, the City Council did previously enact Ordinance No. 1997-2, a subdivision ordinance for the City of Barnesville; and

NOW THEREFORE, Ordinance No. 1997-2 is hereby amended as follows:

Subsection 2.02 – Words and Terms Defined

Major Subdivision: Subdivision of five (5) or more lots.

Minor Subdivision: Subdivision of four (4) or fewer lots.

Subsection 3.06 - Minor Subdivisions

When in the best interest of the City and in cases of minor subdivisions, the Zoning Officer may waive the platting procedure of this Ordinance.

- A. Minor subdivisions may be exempt from the platting provision in this subsection provided the following conditions are met:
1. The lot split does not contain more than four (4) lots;
 2. There is no proposed or perceived need of public improvements as a result of the split;
 3. That the lot split is not part of a continuing scheme of lot splitting for a particular area.
 4. That the lot split does not violate any provision of the Zoning Ordinance, Comp Plan, or any other State or local ordinance; and
 5. That the lot split does not adversely affect public health, safety or welfare.
- B. A legal description and request letter must be submitted to the Zoning Officer, for all minor subdivisions prior to being placed on the agenda of the City Council.

08-11-03-10 Motion by Mr. Simonsen and second by Mr. Ames to approve the first reading of the following Ordinance. A definition of the Combination License will be added for the second reading. Carried.

ORDINANCE 2003-10
AN ORDINANCE AMENDING ORDINANCE NO. 1995-9, INCREASING LICENSE FEES AND REPEALING INCONSISTENT ORDINANCES

The City Council of the City of Barnesville does hereby ordain as follows:

Section 1 - Provisions of State Law Adopted

Provisions of Minnesota Statutes, Chapter 340A relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section 2 - License Required

Subd. 1 - General Requirement

No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be limited to "on-sale" only. "On-sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.

Subd. 1(a) - Temporary On-Sale Licenses

Subject to the approval of the Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connections with a social event within the City sponsored by the licensee and subject to restrictions imposed by the state liquor act." (1996-4)

Subd. 2 - On-Sale Wine Licenses

"On-sale" wine licenses shall continue to be governed by the terms and conditions of Ordinance No. 1983-5 which governs the terms and conditions of non-intoxicating malt liquor licenses and wine licenses within the City of Barnesville.

Subd. 3 - Number of Licenses

The number of licenses authorized shall be governed by state statutes.

Subd. 4 - Special License for Sunday Sales

A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 30 guests at one time, and which has an on-sale license. The annual fee for a Sunday license shall be \$50.00." (1996-6)

Subd. 5 - Community Festival Licenses

The holder of a retail on-sale or combination intoxicating liquor license may be issued a community festival license to dispense intoxicating liquor off premises at a community festival held within the City of Barnesville. The authorization shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as prescribed by state statutes to cover the event.

Subd. 6 - Combination Licenses

A city of the fourth class may issue an off-sale and on-sale intoxicating liquor license to the same licensee or, in lieu of issuing on-sale and off-sale licenses separately to a licensee, may issue a combination on-sale and off-sale license.

Section 3 - Application for License

Subd. 1 - Form

Every application for a license to sell liquor shall state the name of the applicant, the applicant's age, representations as to the applicant's character (with such references as the council may require), the applicant's citizenship, the type of license applied for, the business and connection with which the proposed licensee will operate and its location, whether the applicant is the owner and operator of the business, how long the applicant has been in that business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes, Section 34A.802 during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

Subd. 2 - Bond

Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States government bonds of equivalent market value as provided in Minnesota Statutes, Section 34A.412, Subd. 1. Such surety bond or other security shall be in the sum of \$ 500.00 for an applicant for an on-sale license.

Subd. 3 - Financial Responsibility

No liquor license may be issued, renewed, or maintained unless the applicant demonstrates proof of financial responsibility as defined in Section 34A.409 with regard

to liability under the Minnesota Statutes, Section 34A.801. Such proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 34A.409.

Subd. 4 - Approval of Security

The security offered under Subd. 2 shall be approved by the city council.

Liability insurance policies required by this ordinance, but not by state law, and surety bonds required under Subd. 2, shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city, at all times, effective security as required in Subdivisions 2 and 3 is cause for revocation of the license.

Section 4 - License Fees

Subd. 1 - Fees

The annual fee for ~~an on-sale liquor~~ a combination license shall be ~~\$ 225.00~~.
2004 - \$325, 2005 - \$650.

Subd. 1(a) - Temporary License Fees.

The temporary license fee shall be \$50.00. (1996-4)

Subd. 1(b) - Community Festival License Fees.

The community festival license fee shall be \$25.00.

Subd. 2 - Payment

Each application for a license shall be accompanied by a receipt from the city treasurer for the payment in full of the license fee and the fixed investigation fee required under Section 5, Subd. 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

Subd. 3 - Term; Prorata Fee

Each license shall be issued for a year except that if the application is made during the license year, a license may be issued for the remainder of the year for a prorata fee, with an unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subd. 4 - Refunds

No refund of any fee shall be made except as authorized by statute.

Section 5 - Granting of Licenses

Subd. 1 - Preliminary Investigation

On an initial application for an on-sale license, and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee of \$ 50.00 and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular applicant for renewal of an on-sale license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation.

No license shall be issued, transferred, or renewed if the results show, to the satisfaction of the council, that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2 - Hearing and Issuance

The city council shall investigate all facts set out in the application, and not investigated in the preliminary background, and financial investigation conducted pursuant to Subd. 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subd. 3 - Person and Premises Licensed; Transfer

Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is grounds for revocation of the license.

Section 6 - Persons Ineligible for License

No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

Section 7 - Places Ineligible for License

Subd. 1 - General Prohibition

No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2 - Delinquent Taxes and Charges

No license shall be granted for operation of any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Subd. 3 - License Restrictions

No license shall be granted within 100 feet of any school or 100 feet of any church.

Section 8 - Conditions of Licenses

Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law, or regulation.

Subd. 1 - Insurance

Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 2 - Licensee's Responsibility

Every licensee is responsible for the conduct in the licensed establishment and

any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 3 - Inspections

Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 4 - Display During Prohibited Hours

No "on-sale establishment" shall display liquor to the public during hours when the sale of liquor is prohibited.

Section 9 - Hours

No sale of intoxicating liquors shall be made on any Sunday between the hours of 1:00 am and 12:00 noon, nor between the hours of 10:00 pm and 12:00 midnight. Provided, however, that in any year that December 31st falls on a Sunday, license holders may stay open on that Sunday until midnight and until 1:00 am on Monday, January 1st of the next year. ~~Nor shall there be any sale of intoxicating liquor between the hours of 1:00 am and 7:00 pm on the days of any state wide election.~~ No sale shall be made between the hours of 1:00 am and 8:00 am on any other day.

Section 10 - Suspension and Revocation

The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 14.57 to 14.70 of the Administrative Procedures Act. Lapse of required dram shop insurance or bond or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or security shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license may request a hearing thereon and if such a request is made in writing to the City Administrator a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of the ordinance have again been met.

Section 11 - Penalty

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by fines and imprisonment up to a maximum as provided by state law for misdemeanor convictions.

Section 12 - Repeal

Ordinance No. 1995-9 is hereby repealed.

08-11-03-11 Motion by Mr. Martinson and second by Mr. Hagen to approve the first reading of Ordinance 2003-11. Carried.

ORDINANCE 2003-11

AN ORDINANCE AMENDING ORDINANCE NO. 1995-10, REPEALING INCONSISTENT ORDINANCES IN CONECTION WITH HOURS OF OPENING FOR NON-INTOXICATING MALT LIQUOR AND WINE LICENSES

The City Council of the City of Barnesville does hereby ordain as follows:

Section 1

Ordinance No. 1995-10, which is an ordinance licensing and regulating the sale of non-intoxicating malt liquor and wine, is hereby amended so that, after amendment, Section 9 regarding closing hours shall read as follows:

"Section 9 - Closing Hours. No sale of beer or wine shall be made on any Sunday between the hours of 1:00 am and 12:00 noon, nor between the hours of 10:00 pm and 12:00 midnight. Provided, however, that in any year that December 31st falls on a Sunday, license holders may stay open on that Sunday until midnight and until 1:00 am on Monday, January 1st of the next year. ~~Nor shall there be any sale of beer or wine between the hours of 1:00 am and 7:00 pm on the day of any state wide election.~~ No sale shall be made between the hours of 1:00 am and 8:00 am on any other day."

08-11-03-12 Motion by Mr. Cooper and second by Mr. Martinson to approve the first reading of the following Ordinance. Carried.

ORDINANCE 2003-12

AN ORDINANCE AMENDING ORDINANCE NO. 1995-11 REPEALING INCONSISTENT ORDINANCES ESTABLISHING HOURS FOR SPECIAL CLUB INTOXICATING LIQUOR LICENSES

The City Council of the City of Barnesville does hereby ordain as follows:

Ordinance No. 1995-11, which amended Ordinance No. 1982-5 in connection with the display and consumption of intoxicating liquor, is hereby amended so that Section 5 shall read as follows:

"Section 5 - Closing Hours

No sale of intoxicating liquor shall be made by a club on any Sunday between the hours of 1:00 am and 12:00 noon, nor between the hours of 10:00 pm and 12:00 midnight. Provided, however, any year that December 31st falls on a Sunday license holders may stay open on that Sunday until midnight, and until 1:00 am on January 1st of the next year. ~~Nor shall there be any sale of intoxicating liquor between the hours of 1:00 am and 7:00 pm on the day of any state-wide election.~~ No sale shall be made between the hours of 1:00 am and 8:00 am on any other day."

08-11-03-13 Motion by Mr. Martinson and second by Mr. Simonsen to approve the

second reading of the following Ordinance. Carried.

ORDINANCE 2003-14

AN ORDINANCE TO ESTABLISH THE RATES AND CHARGES FOR DSL SERVICE.

The City Council of the City of Barnesville does hereby ordain as follows:

WHEREAS, Previous DSL rates and services were established by Council by means other than ordinance and,

WHEREAS, DSL service is a service regulated by National Exchange Carrier Association (NECA) and the City of Barnesville doing business as Barnesville Municipal Telephone is a member of NECA and,

WHEREAS, NECA has filed the appropriate tariffs with the Federal Communications Commission which establish charges for DSL services and,

WHEREAS, the Telephone/Electric/Cable TV (T.E.C.) Advisory Board for the City of Barnesville has recommended the following rates and charges for DSL service provided by Barnesville Municipal Telephone.

CITY OF BARNESVILLE MUNICIPAL TELEPHONE DSL CHARGES (including internet service) are as follows:

	MONTHLY COSTS	SPEEDS	
	Internet/DSL	Down speed**	Up speed**
RESIDENTIAL			
1.	\$39.95 (Student DSL)	128 kbps	128 kbps
2.	\$46.90	256 kbps	128 kbps
3.	\$55.90	384 kbps	128 kbps
4.	\$79.90	512 kbps	128 kbps
HOME OFFICE/SMALL BUSINESS/BUSINESS			
1.	\$59.90	256 kbps	128 kbps
2.	\$79.90	312 kbps	128 kbps
3.	\$99.90	584 kbps	128 kbps

Cost for additional Email accounts: \$2.00 per month
Cost for 2nd Static IP addresses \$10.00 per month

Installation charge: \$95.00 non-recurring*

*NECA Tariff allows for a “waiver” of the Installation charge.
Conditions for waiver: Customer agrees to maintain DSL service for a minimum period of twelve months.
Customer will be billed DSL service installation charge should they fail to maintain DSL service for the twelve-month period.

EQUIPMENT REQUIRED TO BE PURCHASED BY CUSTOMER

Network Interface Card (NIC)

Modem: Next Level Etherset (available at City Hall)

Purchase:\$225.00 (plus applicable taxes)

Monthly : \$9.95 per month rent

Rent to Own: \$9.95 per month with a \$5.00 per month credit towards ownership. The amount of credit granted will not exceed the purchase price of the modem.

SOFTWARE REQUIRED/RECOMMENDED

INTERNET BROWSER: Customer provided

FIREWALL: Router, software and electrical surge protector are responsibility of subscriber.

EQUIPMENT PROVIDED FOR CUSTOMER

3 meter CAT 5 patch cord

08-11-03-14 Motion by Mr. Martinson and second by Mr. Simonson to approve the second reading of the following ordinance. Carried.

CITY OF BARNESVILLE
ORDINANCE NO. 2003-15
AMENDING ORDINANCE NO. 1982-3

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BARNESVILLE, CLAY COUNTY, MINNESOTA AS FOLLOWS:

WHEREAS, Ordinance 1982-3 sets forth certain rules and regulations regarding the City of Barnesville water utility; and

WHEREAS, the City Council desires to amend said Ordinance to provide specific requirements regarding access to water meters;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Barnesville as follows:

That Ordinance No. 1982-3 is hereby amended as follows:

The fifth paragraph of Section 4(I) is eliminated.

Section 4(J) is hereby added and adopted as follows:

“4(J). Access to Property for Meter Reading. Employees of the City and their authorized agents shall be admitted to premises during regular City business hours in order to inspect, test, repair, or read an authorized meter or remote reading device upon such premises. Such employees or authorized agents shall upon request, show identification as determined by the City.

If access to a meter or remote reading device cannot be obtained, the City shall cause a notice to be left at the premises indicating the corrective measure required and the time and date by which the corrective measures must be carried out.

Where after two successive attempts to access a meter or remote reading device by employees of the City or their authorized agents, a meter reading fee, to recover the City's costs, shall be levied for each subsequent unsuccessful attempt to read the meter or remote reading device, and the City may discontinue service to the premises.

In an emergency, to include but not be limited to situations which threaten the City's water supply or situations where a customer's property is suffering water damage because of a leak, the City may enter the premises without notice to take corrective measures.”

The remainder of Ordinance 1982-3 is unaffected and remains in full force and effect.

08-11-03-15 Motion by Mr. Simonsen and second by Mr. Hagen to set the Truth in Taxation Hearing date for December 8, 2003. Carried.

08-11-03-16 Motion by Mr. Davis and second by Mr. Cooper to contract to clean out, inspect and disinfect the interior surfaces of the 100,000 gallon elevated water tank tower. Carried.

08-11-03-17 Motion by Mr. Simonsen and second by Mr. Hagen to accept the resignation letter from Crystal Plath, employee of the Liquor store, as of 7-29-2003. Carried.

08-11-03-18 Motion by Mr. Simonsen and second by Mr. Davis to approve tabling

a partial payment to Quam Construction Company Incorporated in the amount of \$21,195.45 pending review from Public works to be brought back on the September 9,2003 meeting. Carried.

08-11-03-19 Motion by Mr. Cooper and second by Mr. Simonsen for the partial payment to Central Specialties for the street and underground utility improvements on Eighth Avenue SE the sum of \$97,838.32 minus a \$ 4,100 amount for Bituminous materials sold to Humbolt Township by the contractor. Carried.

08-11-03-20 Motion by Mr. Davis and Mr. Martinson, to approve a partial payment in the amount of \$248,247.02 was approved for the Mark Sand and Gravel Company, for street and underground utility improvements on TH 9. Carried.

08-11-03-21 Motion by Mr. Simonsen and second by Mr. Hagen to approve special Potato Days Liquor Licenses for the following business's; Barnesville Knights of Columbus, American Legion Post 153, VFW Post 4628, Big Bob's Bar and Grill, and Ratzo's Pool Hall for Potato Days. Carried.

08-11-03-22 Motion by Mr. Simonsen and second by Mr. Davis to approve the Resolution for Job Opportunity Building Zones (JOBZ) to stimulate the economic development activity in distressed areas of Minnesota by providing local and state tax exemptions. Carried.

An Accident Investigation Report from the electrical department was presented for informational purposes and will be placed in Mr. Tenderholt's Personnel Folder.

08-11-03-23 Motion by Mr. Simonsen and second by Mr. Martinson to approve the transfer of \$24,539.12 from the Capital Project fund 412 to Fund 411. Carried.

The resolution to approve the declaring cost to be assessed and ordered preparation of proposed assessments for the street and underground utility improvements to Stoneridge Addition and Second Avenue NE. A hearing date on the proposed assessments was tabled.

08-11-03-24 Motion by Mr. Simonsen and second by Mr. Davis to approve Kern DeWenter-Viere as city auditor for the year ending December 31, 2003 with KDV preparing the financial statements. Carried.

Mayor Prim stated he would like to adopt a budget before adopting a levy for property taxes payable in 2004. This matter was tabled.

08-11-03-25 Motion by Mr. Simonsen and second by Mr. Davis to approve transferring \$4,874.54 from the General Fund to Fund 227 (Mainstreet). Carried.

Mr. Miller received notification that the League of Minnesota Cities will be holding its Clerks Orientation Conference on August 26, 27 & 28, 2003. Mr. Miller was not approved. It was suggested if someone should go it should be Jeri Davis.

The Discretionary Funds status report was presented for informational purposes.

08-11-03-26 Motion by Mr. Davis and second by Mr. Simonsen to approve the final boundaries of the wellhead protection areas. Carried.

08-11-03-27 Motion by Mr. Simonsen and second by Mr. Martinson to approve the transfer of \$408.84 to Mainstreet and \$14,080.68 to Parks and Rec. from the General Fund. Carried.

Mr. Jacobson stated that the General Ledger has been reconciled through June 2003.

08-11-03-28 Motion by Mr. Simonsen and second by Mr. Davis to approve the following resolution. Carried.

RESOLUTION NO. 08-11-03-28

In the Matter of Declaring Cost to be Assessed
and
Ordering Preparation of Proposed Assessments
for
Street and Underground Utility Improvements
Stoneridge Addition and Second Avenue Northeast

WHEREAS, a contract has been let (costs have been determined) for sewer and watermain improvements to Stoneridge Addition and Second Avenue Northeast and the contract (bid) price for such improvements is \$1,033,131.00 and the expenses incurred or to be incurred in the making of such improvements amount to \$206,626.00 so that the total cost of the improvements will be \$1,239,757.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Barnesville, Minnesota:

1. The portion of the cost of such improvements to be paid by the City is hereby declared to be \$236,673.00 and the portion of the cost to be assessed against benefited property owners is declared to be \$1,003,084.00.
2. Assessments shall be payable in equal annual installments extending over a period of fifteen (15) years. The first of the installments to be payable on or before the first Monday in January 2004 and shall bear interest at the rate of seven (7) percent per annum from January 1, 2004.
3. The City Administrator-Clerk-Treasurer, with the assistance of the City Engineer, shall forthwith calculate the proper amount to be specially assessed for such improvements against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and he shall file a copy of such proposed assessment in his office for public inspection.
4. The City Administrator-Clerk-Treasurer shall upon the completion of such proposed assessment, notify the Council thereof.

Passed and adopted this 11th day of August, 2003.

Approved this 11th day of August, 2003

The resolution setting a hearing date for proposed assessments for the Stoneridge Addition was tabled.

08-11-03-29 Motion by Mr. Davis and second by Mr. Simonsen to approve disbursement checks number 10702 through 10847 in the amount of \$168,949.36 and manual checks number 707 through 723 in the amount of \$21,816.12 and EFT payments of \$90,942.17. Carried.

Mayor Gene Prim adjourned the meeting at 8:50 PM.

Submitted by:

Attest:

Leslie Brenner
Minutes Recorder

Eugene Prim
Mayor