

Barnesville City Council
Regular Meeting
May 9, 2016

Mayor Gene Prim called this regular meeting to order at 7:00 p.m. Members present were Council members Jason Rick, Don Goedtke, Betty Strom, Larry Davis, Jr., Dawn Stuvland and Brad Field. Others in attendance were City Administrator Mike Rietz, Sara Nyhus-Wear with Ohnstad Twichell, City Clerk Jeri Reep, Finance Director Laurie Schell, TEC Manager Guy Swenson, EDA Director Karen Lauer, Police Chief Dean Ernst, Public Works Supt. Trevor Moen, Mike Kurkowski with People Service, Nick Anhut with Ehlers Investment Partners, Cris Mortensen, and Pam Aakre with the Record Review.

Mayor Prim next asked if there were any additions or corrections to the agenda. City Administrator Mike Rietz stated that there were no additions or corrections.

05-09-16-01 Motion by Mr. Rick and second by Mrs. Strom to approve the agenda as presented. Motion carried.

Mayor Prim next called on Mr. Mike Kurkowski with People Service Mr. Kurkowski updated council members on the water quality over the past weekend. Mr. Kurkowski stated that staff had ran the well water over the weekend, and the discolored water will improve within a day or two.

Mayor Prim stated the next item on the agenda was the consent agenda.

05-09-16-02 Motion by Mrs. Strom and second by Mr. Rick to approve the consent agenda as presented. Motion carried. The following items were on the consent agenda:

1. Approval of the minutes of the regular meeting held on April 11, 2016
2. Approval of the minutes of the special meeting held on April 19, 2016
3. Approval of department head reports
4. Approval of the monthly expenditures of check numbers 81842 – 81983 in the amount of \$318,806.08 and EFT payments in the amount of \$221,084.17.
5. Approval of the resignation of Liquor Store Clerk Stacy Brenner.
6. Approval to hire John Hoffbeck and Douglas Roise as part-time Golf Course Pro Shop employees at \$10.00 per hour.
7. Approval to hire Hunter Moen as part-time mower position at \$9.50 per hour.
8. Approval of the 2015 annual audit report.
9. Approval of the Christmas Eve Holiday policy revision.
10. Approval of the gambling permit for the Barnesville Thursday Nite Lions-July 16-17, 2016.

Mayor Prim stated the next item on the agenda was the board and commission reports.

Council members reported on the boards and commissions they serve on. EDA Director Karen Lauer reported that the Splash Pad has received a donation of \$50,000 from Cela Kava Dolan who is Lawrence and Elaine Kava's daughter. Mrs. Lauer reported that the Splash Pad has received their goal of donations in the amount of \$100,000.00.

Mayor Prim stated the next item on the agenda was the public forum. Mayor Prim asked if there were any citizens present to be heard.

Mr. Cris Mortensen next approached the council and stated that he purchased property from Mr. Enderson in July 2014. Mr. Mortensen questioned about the road being vacated. Mr. Mortensen discussed the issue of a fence being built and a land swap of property. Mr. Mortensen questioned the CUP for the City of Barnesville and the dates on the CUP application. Mr. Mortensen stated that a CUP was not issued for Friendship Park. City Administrator Mike Rietz stated that the direction that he has received from the Liquor, Ordinances and Buildings committee is to proceed with the land swap.

Council member Strom asked that staff include all portfolio meeting minutes to be included in the agenda packet starting immediately.

Mayor Prim next asked if there were any other citizens present to be heard. There were none.

Mayor Prim stated the next item on the agenda was the Resolution approving the sale of \$1,260,000 General Obligation Improvement Bonds-Series 2016A.

Mr. Nick Anhut with Ehlers & Associates discussed with council members the results of the City bond sale. United/Midwest was the lowest bidder at 2.54% and the highest bid was Northwood Bank at 2.72%. Mr. Anhut stated that these are very low interest rates. Mr. Anhut stated that the reduced interest over the time of the bond would amount to approximately a \$90,000.00 savings.

05-09-16-03 Motion by Mr. Rick and second by Mrs. Strom to approve the following resolution. Upon a roll call vote, the following voted aye: Councilmembers Rick, Goedtke, Strom, Davis, Stuvland, and Field. The following voted nay: none. The following were absent: none. Motion carried.

(see attached)

Mayor Prim stated the next item on the agenda was the 2nd reading of Ordinance 2016-05.

City Administrator Mike Rietz stated that language was changed in the R-2 section dealing with the side setbacks for twin homes. In the Manufactured Homes section, the changes are cleaning up the reference to the building code and clarifying the foundation requirements.

05-09-16-04 Motion by Mr. Davis and second by Mrs. Stuvland to approve the 2nd reading of Ordinance 2016-05. Motion carried.

**CITY OF BARNESVILLE
ORDINANCE NO. 2016-05**

**AN ORDINANCE TO AMEND AND REENACT CHAPTER 7-02, SEC. 7-0203, SUBD. 4,
SEC. 7-02, SUBD 4 REGARDING YARD AND LOT REQUIREMENTS AND CHAPTER
7-05, SEC. 7-0501 REGARDING MANUFACTURED HOMES.**

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

SECTION 1. Chapter 7-02 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

SEC. 7-0203. R-2 URBAN RESIDENTIAL DISTRICT

Subd. 4. Yard and Lot Requirements:

	<u>One Family</u>	<u>All Other Uses</u>	<u>Accessory Structures</u>
Minimum Lot Area (sq. ft.)	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	[2]	[2]	[3]
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 the lot width at the front yard setback. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of twelve (12) feet from the property line. For attached single-family dwellings with a common wall the setback on that side shall be zero (0) feet.

[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 vehicle parking off the right-of-way. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of

twelve (12) feet from the property line. A setback of ten (10) feet is required if there is a utility easement. On a lot 30,000 sq. ft. or larger accessory buildings with sidewalls greater than ten feet shall have a required setback of 15 feet from the property line.

SEC. 7-0204 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

Subd. 4. Yard and Lot Requirements:

	<u>Townhouses</u>	<u>Multiple Family and Other Uses</u>
Minimum Lot Area (sq. ft.)	<u>3,600</u>	[1]
Minimum Lot Width at Setback Line (ft.)	<u>30</u>	60
Minimum Lot Depth (ft.)	<u>120</u>	120
Minimum Rear Yard Setback (ft.)	<u>25</u>	25
Minimum Front Yard Setback (ft.)	<u>25</u>	25
Minimum Side Yard Setback	<u>[2]</u>	[2]
Maximum Lot Coverage	<u>[3]</u>	[3]

[1] Not less than 7,200 sq. ft for each multiple-family ~~dwelling~~ building having four (4) dwelling units or less, and not less than 750 additional sq. ft. for each additional dwelling unit.

[2] Side yard setback shall be a minimum of fifteen (15) feet except on corner lots where the side adjacent to the street ~~it~~ shall be a minimum of twelve 12 feet from the property line. For attached single-family dwellings with a common wall the setback on that side shall be zero (0) feet. However, a minimum distance of 30 feet must be maintained between structures on adjacent parcels if one of the structures is a multi-story building of 3 or more dwelling units.

[3] Maximum lot coverage for a single-story units building is 40%. For all other units buildings the maximum is 35%.

SECTION 2. Chapter 7-05 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

SEC. 7-0501 MANUFACTURED HOMES. Manufactured homes as defined in the Chapter, are permitted in R-1 and R-2 Districts subject to the following conditions:

Subd. 1. All manufactured homes shall be constructed after June 15, 1976 and bear the HUD certification seal.

Subd. 2 The minimum width of the structure at its narrowest point shall not be less than ~~twenty-two~~ twenty-four (22 24) feet.

Subd. 3 All dwellings shall be placed on a continuous permanent exterior perimeter foundation with the necessary frost footings in compliance with the ~~Uniform~~ International Building Code as adopted by the City.

Subd. 4 Hitches or other visible transport equipment shall be removed.

PASSED AND ADOPTED by the Barnesville City Council this 9th day of May, 2016.

APPROVED:

Eugene Prim
Mayor

ATTEST:

Jeri Reep
City Clerk

First Reading: April 19, 2016
Second Reading: May 9, 2016
Adopted: May 9, 2016
Published: May 16, 2016

Mayor Prim stated the next item on the agenda was the approval of the summary Ordinance 2016-05.

05-09-16-05 Motion by Mr. Davis and second by Mrs. Strom to approve the summary Ordinance 2016-05. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2016-05

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend and Reenact Chapter 7-02, Sec. 7-0203, Subd. 4, Sec. 7-02, Subd 4 Regarding Yard and Lot Requirements and Chapter 7-05, Sec. 7-0501 Regarding Manufactured Homes

2. Summary of Ordinance:

This ordinance adds language allowing zero setbacks for sides of property with structures having common walls in R-2 and R-3 and makes various other changes to the yard and lot requirements in the R-3 section. It also increases the minimum width of manufactured homes in the R-1 and R-2 districts as well as clarifying the foundation requirements for manufactured homes in those districts.

This Ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This Ordinance was passed by the City Council of the City of Barnesville on the 9th day of April, 2016.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: April 19, 2016
Second Reading: May 9, 2016
Adopted: May 9, 2016
Published: May 16, 2016

Mayor Prim stated the next item on the agenda was the preliminary plat for the Townhomes on Third.

City Administrator Mike Rietz stated that council needs to approve the preliminary and final plat for the Townhomes on Third Subdivision. The Planning Commission has approved the plat, and are in compliance with the City Code. The City Code allows for the preliminary and final plats to be approved at the same meeting.

05-09-16-06 Motion by Mrs. Stroma and second by Mrs. Stuvland to approve the preliminary plat for the Townhomes on Third Subdivision. Motion carried.

Mayor Prim stated the next item on the agenda was the approval of the final plat for the Townhomes on Third Subdivision.

05-09-16-07 Motion by Mrs. Strom and second by Mr. Rick to approve the final plat for the Townhomes on Third Subdivision project. Motion carried.

Mayor Prim stated the next item on the agenda was the 2nd reading of Ordinance 2016-03.

City Administrator Mike Rietz informed council members that our current Code section regarding solicitor and peddler license could use an updating, and this new ordinance also addresses food trucks. Food trucks can operate on streets in residential districts upon approval of the City Council, and in park or other public property with approval of the City Administrator.

05-06-16-08 Motion by Mr. Goedtke and second by Mrs. Stuvland to approve the 2nd reading of Ordinance 2016-03. Motion carried.

ORDINANCE NO. 2016-03

AN ORDINANCE TO AMEND AND REENACT CHAPTER 4-02, SEC. 4-0215 AND CHAPTER 8—1, SEC. 4-0215 REGULATING THE CONDUCT OF PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE FOOD VENDORS AND SETTING LICENSE FEES FOR PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE FOOD VENDORS WITHIN THE CITY OF BARNESVILLE, MINNESOTA

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

SECTION 1. Chapter 4-02, Sec. 4-0215 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

Subd. 1. Purpose. This Section is not intended in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

Subd. 2. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. "Non-Commerical Door-To-Door Advocate." A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

B. "Peddler." A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

C. "Person." Any natural individual, group, organization, corporation, partnership, or similar association.

D. "Regular Business Day." Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

E. "Solicitor." A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

F. "Transient Merchant." A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products,

merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

G. **"Mobile Food Vendor."** A person who sets up a business in a vehicle-mounted retail establishment that is readily moveable and sells food products directly to a consumer.

H. **"Mobile Food Unit."** A mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the City Council and, if required, the State and/or other local authority; or

(2) operated in conjunction with a permanent business at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Subd. 3. Exceptions to Definitions.

For the purpose of this chapter, the terms Peddler, Solicitor, Transient Merchant and Mobile Food Vendor shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 7.

(B) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Subd. 4. Licensing; Exemptions.

(A) *County/State license required.* No person shall conduct business as a peddler, solicitor, transient merchant, or mobile food vendor within the city limits without first having obtained the appropriate license from the county or state, as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity or by Minnesota Statutes Chapter 157, as may be amended from time to time.

(B) **City license required.** Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler, transient merchant, or mobile food vendor without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Subdivision 9.

(C) **Application.** An application for a city license to conduct business as a peddler, transient merchant or mobile food vendor shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
- (7) Full address of applicant's regular place of business, if any exists.
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
- (9) The type of business for which the applicant is applying for a license.
- (10) The dates during which the applicant intends to conduct business.
- (11) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
- (12) A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
- (13) A statement whether the individual is required to register as a sex offender.
- (14) A list of the three (3) most recent locations where the applicant has conducted business as a peddler, transient merchant or mobile food vendor.
- (15) Proof of any required county or state license.
- (16) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant or mobile food vendor.
- (17) A general description of the items to be sold or services to be provided.
- (18) Any and all additional information as may be deemed necessary by the City Council.
- (19) The applicant's driver's license number or other acceptable form of identification.
- (20) For each employee or volunteer conducting business under applicant's license, the following information is required:
 - (a) Individual's full legal name.

(b) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.

(c) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).

(d) Individual's driver's license number or other acceptable form of identification.

(e) A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

(f) A statement whether the individual is required to register as a sex offender.

(21) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

(D) **Insurance.** All applicants must provide proof of insurance, including but not limited to liability insurance, in the amount required by the City Administrator. All applicants must name the City of Barnesville as an additional insured. Proof of insurance naming the City of Barnesville as an additional insured must be provided to the City Administrator prior to issuance of any license under this Section.

(E) **Fee.** All applications for a license under this chapter shall be accompanied by the fee established by consolidated ordinance of the Council and kept on file in the office of the City Administrator and open for inspection by the public.

(F) **Procedure.** Upon receipt of the application and payment of the license fee, the city clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under Section 4, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(G) **Duration.** An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers, transient merchants and mobile food vendors under this ordinance shall be valid only during the time period indicated on the license.

(H) **License exemptions.**

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

Subd. 5. License Ineligibility.

The following shall be grounds for denying a peddler, transient merchant or mobile food vehicle vendor license:

(A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county or state license.

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(C) The failure of an applicant to sign the license application.

(D) The failure of an applicant to pay the required fee at the time of application.

(E) A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(F) The revocation within the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, transient merchant, or mobile food vendor.

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

Subd. 6. Mobile Food Vendor Regulations.

(A) Vendors must have a valid license from the Minnesota Department of Health.

(B) Vendors are allowed on public right-of-way in areas zoned commercial or industrial. Vendors are not allowed on public right-of-way in areas zoned residential without approval of the City Council. Vendors are allowed on public property subject to the approval of the location by the City Administrator or his/her designee. Vendors on the public right-of-way shall be subject to on-street parking regulations. Vendors shall not be allowed within 200 feet of a restaurant.

(C) Vendors shall be allowed on private property located in areas zoned commercial or industrial. Vendors shall not be allowed within 200 feet of a restaurant.

(D) Vendors must not obstruct the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

(E) Vendors must not call attention to his or her business or the items sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise.

(F) Vendors must not conduct business in a way as to create a threat to the health, safety, or welfare of any specific individual or the general public.

(G) Vendors shall not be allowed to operate from 10:00 p.m. to 7:00 a.m, unless otherwise approved by the City Council.

(H) Vendors shall not operate any such business within five hundred (500) feet of any city or county fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city council, except when the licensee has obtained a temporary food permit from the party responsible for granting approval for participating in such event.

(I) Vendors shall not use any portion of the mobile food unit as living or sleeping quarters.

(J) Signage for the mobile food unit shall be attached to the unit, projecting no more than 6 inches from the unit and shall take up no more than 50% of the surface area of the unit.

(K) The noise level of mechanical equipment or outside sound equipment used in association with any mobile food vehicle may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use.

(L) Vendor must provide proof of license, or registration, and identification when requested.

(M) Vendor must not use the license or registration of another person.

(N) Vendor must not allege false or misleading statements about the products or services being sold, including untrue statements of endorsement. No mobile food vendor shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(O) Vendor must not remain on the property of another when requested to leave.

(P) Vendor must not otherwise operate their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 7. License Suspension and Revocation.

(A) ***Generally.*** Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under Section 4.

(4) Engaging in any prohibited activity as provided under Section 8 of this ordinance.

(5) Violation of any other provision of this ordinance.

(B) ***Multiple persons under one license.*** The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers, transient merchants or mobile food vendors on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler, transient merchant or mobile food vendor on behalf of the licensee whose license is suspended or revoked.

(C) ***Notice.*** Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by

mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) **Public Hearing.** Upon receiving the notice provided in part (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) **Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler, transient merchant or mobile food vendor licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this section.

(F) **Appeal.** Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Subd. 8. License Transferability.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Subd. 9. Registration.

(A) All solicitors and any person exempt from the licensing requirements of this ordinance under Section 3 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

Subd. 10. Prohibited Activities.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

(A) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

(D) Conducting business before 8 a.m. or after 9 p.m.

(E) Failing to provide proof of license, or registration, and identification when requested.

(F) Using the license or registration of another person.

(G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(H) Remaining on the property of another when requested to leave.

(I) On any property designated as a city park.

(J) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 11. Exclusion by Placard.

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, mobile food vendor, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, mobile food vendor, or similar activity when the property is marked with a sign or placard:

(1) At least four inches long.

(2) At least four inches wide.

(3) With print of at least 48 point in size.

(4) Stating “No Peddlers, Solicitors or Transient Merchants,” “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Subd. 12. Penalty.

(A) Any individual found in violation of any provision of this ordinance, shall be a guilty of a misdemeanor.

(B) In addition to and notwithstanding the within and foregoing penalty, the city may apply to the district court for Clay County, Minnesota, for injunctive relief against any individual violating the provisions of this chapter.

Subd. 13. Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 2. Chapter 8-01, Sec. 4-0215 of the Municipal Code of the City of Barnesville is hereby amended and reenacted to read as follows:

Subd. 4(D). License Fee.

Any license required under this Section	\$100.00 plus \$20/day to a maximum fee of \$300
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SECTION 3.. Effective Date.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subd. 10, as it may be amended from time to time.

PASSED AND ADOPTED by the Barnesville City Council this 9th day of May, 2016.

APPROVED:

Eugene Prim
Mayor

ATTEST:

Jeri Reep
City Clerk

First Reading: April 11, 2016
Second Reading: May 9, 2016
Adopted: May 9, 2016
Published: May 16, 2016

Mayor Prim stated the next item on the agenda was the approval of the summary of Ordinance 2016-03.

05-09-16-09 Motion by Mrs. Stuvland and second by Mr. Davis to approve the summary Ordinance 2016-03. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2016-03

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend and Reenact Chapter 4-02, Sec. 4-0215 And Chapter 8—1, Sec. 4-0215 Regulating the Conduct of Peddlers, Solicitors, Transient Merchants, and Mobile Food Vendors and Setting License Fees for Peddlers, Solicitors, Transient Merchants, and Mobile Food Vendors within the City of Barnesville, Minnesota.

2. Summary of Ordinance:

This ordinance revises the language on solicitors, peddlers and transient merchants and adds language regarding mobile food vendors. This also increases the fee for these permits to \$100 plus \$20/day up to \$300.

This Ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Barnesville City Hall, 102 Front Street North, Barnesville, Minnesota.

This Ordinance was passed by the City Council of the City of Barnesville on the 9th day of April, 2016.

APPROVED:

Eugene Prim, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: April 11, 2016
Second Reading: May 9, 2016
Adopted: May 9, 2016
Published: May 16, 2016

Mayor Prim stated the next item on the agenda was the Xcel Natural gas extension.

City Administrator Mike Rietz informed council members that in order for Xcel Energy to put natural gas into a new development, they require an up-front payment from the developer. Then for 5 years after the installation of the infrastructure, Xcel makes a \$500 payment back to the developer for any lot that hooks up to the natural gas. For the Del Acres Gilbertson 2nd Addition the payment would be \$17,120.00.

The Personnel & Finance committee is recommending to utilize the bond proceeds for the upfront fee from Xcel Energy in the amount of \$17,120.00 to extend natural gas into the Del Acres Gilbertson 2nd Addition.

05-09-16-10 Motion by Mr. Field, second by Mr. Goedteke to pay for the upfront fees from Xcel Energy in the amount of \$17,120.00 to extend natural gas into the Del Acres Gilbertson 2nd Addition. Motion carried.

Mayor Prim stated the next item on the agenda was the priority setting discussion follow-up.

Mayor Prim discussed the suggestions from the priority setting council meeting. Mayor Prim asked members to let the committees know of your interest in these suggestions.

Mayor Prim stated the next item on the agenda was the MN Small Cities Development Program update.

EDA Director Karen Lauer next shared with council members that the City was awarded the Small Cities Grant in the amount of \$937,725.00, which was the 2nd largest grant awarded. Mrs. Lauer stated that 15 single family homes and 12 commercial business will be receiving grant money to make improvements on their property.

Mayor Prim stated the next item on the agenda was the CGMC 2016 Environmental program update. City Administrator Mike Rietz stated that this was for information for council members.

The next item on the agenda was the Clay County 2017 reassessments.

City Administrator Mike Rietz informed council members that the Clay County Assessor's office will be conducting a reassessment of the City the next five months. The assessments will be for the 2017 assessments payable in 2018.

Mayor Prim adjourned the meeting at 7:53 p.m.

Submitted by:

Attest:

Jeri Reep
City Clerk

Eugene Prim
Mayor

