

Barnesville City Council

Regular Meeting

February 13, 2023

Mayor Rick called this regular meeting to order at 7:00 p.m. Member's present were Council members Tonya Stokka, Scott Bauer, Don Goedke, Dawn Stuvland, and Alyssa Bergman. Absent was council member Brad Field. Others in attendance were City Administrator Jeremy Cossette, City Attorney Charles Ramstad, City Clerk Jeri Reep, EDA Director Karen Lauer, TEC Manager Guy Swenson, Finance Director Laurie Schell, Public Works Supt. Charlie Revering, Police Chief Joel Voxland, Todd Hagen with Ehlers & Associates, Barnesville Scout Leader Jesse Grabow, Jade Rosenfeldt, Anna Ostby, Carlton Moe, and Michael Stein with the Record Review.

TEC Manager Guy Swenson informed council members that the audio system is now working, both the audio and visual.

Mayor Rick asked if there were any additions or corrections to the agenda. City Administrator Jeremy Cossette stated that the only addition was to add the Great River Energy eminent domain discussion.

02-13-23-01 Motion by Mrs. Bergman and second by Mrs. Stokka to approve the agenda as presented, with the addition of Great River Energy eminent domain discussion. Motion carried.

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

02-13-23-02 Motion by Mrs. Stokka and second by Mrs. Stuvland to approve the consent agenda. Motion carried. The following items were on the consent agenda:

1. Approval of the minutes of the regular meeting held on January 9, 2023.
2. Approval of the department head reports.
3. Approval of check numbers 93143 – 93235 and EFT payments for a total of \$588,448.85.
4. Approval to amend the December 12, 2022 city council minutes.
5. Approval to hire Christopher Blomberg as Skating Rink Attendant.
6. Approval to hire Shawn Nelson as Skating Rink Attendant.
7. Approval to hire Denise Nelson as Skating Rink Attendant.
8. Approval of Barnesville Lions Club gambling permit-July 13-15, 2023.
9. Approval of Barnesville Lions Club gambling permit-August 26, 2023
10. Approval of Assumption Church gambling permit-March 6-May 28, 2023

11. Approval of Wagner Campground Host position.
12. Approval to appoint Joshua Schroeder to the Development Control Board.
13. Approval of Barnesville Homes lot subdivision request
14. Approval of Giving Hearts Day marketing expenses.
15. Approval of CliftonLarsonAllen consulting work
16. Approval of travel for Mayor Rick and City Administrator Jeremy Cossette to attend the League of MN Cities conference-March 9, 2023.
17. Approval of cancellation of Service Line Warranties of America.
18. Approval of 2022 SAIFI, SAIDI, CAIDI & ASAI report.

Mayor Rick stated the next item on the agenda was the boards and commission reports.

Council members reported on the boards and commissions they serve on.

Mayor Rick stated the next item on the agenda was the public forum. Mayor Rick asked if there were any citizens present to be heard. There were none.

Mayor Rick stated the next item on the agenda was the Mayor and Council members announcements. Mayor Rick called on EDA Director Karen Lauer to give an update on the Giving Hearts day donations. Mrs. Lauer stated that over \$72,000 has been raised for the Giving Hearts Day.

Mayor Rick next introduced Barnesville Scout Leader Jesse Grabow. Mr. Grabow discussed with council members the projects the Boy Scout Troop 604 are working on, attending a city council meeting is part of the Boy Scouts earning a merit badge.

Mayor Rick stated the next item on the agenda was the Resolution providing for the sale of GO Bonds, Series 2023A.

Mr. Todd Hagen with Ehlers next discussed the \$1,670,000 General Obligation Bond with council members. This bond includes financing with other available funds, for the construction various water and sewer improvements in connection with a MnDOT street project. The bonds being issued will be for a term of 20 years. The City's most recent bond issues were rated by S & P Global Ratings. The current ratings on those bonds are A+. The city will request a new rating for the bonds. The conference call with Rating Agency will be February 23, 2023, and the City Council will award the sale of the Bonds at their March 13, 2023 meeting. Council members had no questions for Mr. Hagen.

02-13-23-03 Motion by Mrs. Stokka and second by Mr. Goedtke to approve the Resolution providing for the sale of \$1,670,000 GO Improvement Bonds, Series 2023A. Upon a roll call vote, the following voted aye: Council members Stokka, Goedtke, Stuvland, Bauer and Bergman. The following were absent: Council member Field. Motion carried.

CITY OF BARNESVILLE

COUNTY OF CLAY

STATE OF MINNESOTA

Resolution No. 02-13-23-03

Council Member Stokka introduced the following resolution and moved its adoption:

Resolution Providing for the Sale of

\$1,670,000 General Obligation Improvement Bonds, Series 2023A

- A. WHEREAS, the City Council of the City of Barnesville, Minnesota has heretofore determined that it is necessary and expedient to issue the City's \$1,670,000 General Obligation Improvement Bonds, Series 2023A (the "Bonds"), to finance with other available funds, for the construction of various water and sewer improvements in connection with a MnDOT street project in the City; and
- B. WHEREAS, the City has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent municipal advisor for the Bonds in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(9);

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

- 1. Authorization; Findings. The City Council hereby authorizes Ehlers to assist the City for the sale of the Bonds.
- 2. Meeting; Proposal Opening. The City Council shall meet at 7:00 p.m. on March 13, 2023, for the purpose of considering proposals for and awarding the sale of the Bonds.
- 3. Official Statement. In connection with said sale, the officers or employees of the City are hereby authorized to cooperate with Ehlers and participate in the preparation of an official statement for the bonds and to execute and deliver it on behalf of the City upon its completion.

The motion for the adoption of the foregoing resolution was duly seconded by Council Member Goedtke and, after full discussion thereof and upon a vote being taken thereon, the following Council Members voted in favor thereof: Stokka, Goedtke, Stuvland, Bauer, and Bergman. Council member Field was absent.

and the following voted against the same: none.

Whereupon said resolution was declared duly passed and adopted.

Dated this 13th day of February, 2023.

Jeremy Cossette, City Administrator

Mayor Rick stated the next item on the agenda was the resolution authorizing the city to enter into a Credit Enhancement program agreement with the MN Public Facilities Authority.

02-13-23-04 Motion by Mr. Goedkte and second by Mrs. Stokka to approve the resolution authorizing the city to enter into a Credit Enhancement program agreement with the MN Public Facilities Authority Upon a roll call vote, the following voted aye: Council members Stokka, Goedkte, Stuvland, Bauer and Bergman. The following were absent: Council member Field. Motion carried.

CITY OF BARNESVILLE

COUNTY OF CLAY

STATE OF MINNESOTA

Resolution No. 02-13-23-04

Council Member Goedkte introduced the following resolution and moved its adoption:

Resolution Authorizing the City to Enter into a Credit Enhancement Program Agreement with the Minnesota Public Facilities Authority

- A. WHEREAS, the City Council of the City of Barnesville, Minnesota (the "City") proposes to issue its General Obligation Improvement Bonds (the "Bonds"), the proceeds of which will be used to finance the costs of construction, improvement or rehabilitation of water, sanitary sewer, and storm sewer facilities; and
- B. WHEREAS, the City Council hereby determines it is in the best interests of the City to apply to the Minnesota Public Facilities Authority (the "Authority") for credit enhancement of the Bonds;

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

1. Approval of the Authority's Credit Enhancement Program Agreement. The Authority's Credit Enhancement Program Agreement (the "Agreement") is hereby approved, the same being before the City Council and made a part of this resolution by reference.
2. Authorization to Sign Agreement and Related Forms. The Mayor and the City Administrator are authorized to sign the Agreement on the City's behalf and to execute any other related forms prescribed by the Authority with respect to the Agreement.
3. Agreement to Comply with Minnesota Statutes, Section 446A.086. The City is entering into the Agreement with the Authority pursuant to Minnesota Statutes, Section 446A.086 (the "Act") and the City hereby agrees to comply with and be bound by the provisions of the Act.

4. Submission of the Agreement. The Mayor and the City Administrator are hereby authorized to submit, on the City's behalf, the Agreement to the Authority, together with the nonrefundable application fee in the amount of \$500.

The motion for the adoption of the foregoing resolution was duly seconded by Council Member Stokka and, after full discussion thereof and upon a vote being taken thereon, the following Council Members voted in favor thereof: Stokka, Goedkte, Stuvland, Bauer and Bergman. Absent was Council Member Field.

And the following voted against the same: none.

Whereupon said resolution was declared duly passed and adopted.

Dated this 13th day of February, 2023.

Jeremy Cossette, City Administrator

Mayor Rick stated the next item on the agenda was the 2nd reading of Ordinance 2023-01, the THC Ordinance.

City Administrator Jeremy Cossette stated that the Planning Commission recommend approval of this ordinance.

Anna Ostby, 111 Front Street South, next addressed council members. Ms. Ostby stated that she has lived here 15 years, and she is a concerned citizen that the city doesn't sell THC in town. The cost is way to heavy; THC will destroy people's minds. Ms. Ostby asked council members to take the population into consideration.

Mayor Rick asked if there were any other citizens present for comments. Mayor Rick asked three times if there were any citizens present to be heard. There were none.

City Attorney Charles Ramstad stated that the purpose of this ordinance, is to regulate the sales of THC products. This ordinance will allow certain zones of the city to sell the product. Background checks will be conducted before a license is issued. These regulations may be temporary, depending on the State of Minnesota laws.

02-13-23-05 Motion by Mr. Bauer and second by Mr. Goedtke to approve the 2nd reading of Ordinance 2023-01. Motion carried.

Ordinance No. 2023-01

City of Barnesville, Minnesota

An Ordinance Amending Title IV of the Barnesville City Code

Relating to Tetrahydrocannabinol Product Sales

The Council of the City of Barnesville Minnesota does ordain:

Section 4-04 of the Barnesville City Code is hereby adopted to read as follows:

Section 4-04. Tetrahydrocannabinol Product Sales.

Subd. 1. **Purpose and Intent.** By enacting Laws 2022, Chapter 98, Article 13 the Minnesota Legislature amended Minnesota Statutes, Section 151.72 and legalized the sale and adult use of certain products containing tetrahydrocannabinol (“THC”). The purpose of this Section is to regulate the sale of products that contain THC (“THC Product” or “licensed product”) and are intended for human or animal consumption, excluding “medical cannabis” as defined by Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time, for the following reasons:

- A. The city recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use THC products presents a significant potential threat to the public health, safety, and welfare of the residents of City of Barnesville and particularly to youth.
- B. The city has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to minors.
- C. A local regulatory system for THC product retailers is appropriate to ensure that retailers comply with THC product laws and business standards of the City of Barnesville to protect the health, safety, and welfare of our youth and most vulnerable residents.
- D. State law requires THC product retailers to check the identification of purchasers to verify that they are at least 21 years of age, comply with certain packaging and labeling requirements to protect children and youth, and meet certain potency and serving size requirements.
- E. State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of THC products and ensure the safety and compliance of commercially available THC products in the state of Minnesota.
- F. State law does not preempt the authority of a local jurisdiction to adopt and enforce local ordinances to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.
- G. A requirement for a THC product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute THC products to adults, but will allow the City of Barnesville to regulate the operation of lawful businesses to discourage violations of state and local THC Product-related laws.
- H. In making these findings and enacting this ordinance, the Barnesville City Council intends to ensure responsible THC product retailing, allow legal sale and access without promoting increases in use, and discourage violations of THC Product-related laws, especially those

which prohibit or discourage the marketing, sale, distribution, possession, and use of THC products to or by youth under 21 years of age.

Subd. 2. **Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Subdivision:

- A. Applicant: The natural person or business entity applying for a license under this section, and in the case of a business entity, any owner of that business entity.
- B. Assistance or intervention: The actual physical exchange of the licensed product between the customer, and the licensee or employee of licensee.
- C. Compliance Checks: The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this section. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes, or for investigating or enforcing Federal, State, or local laws and regulations relating to licensed products.
- D. Exclusive Liquor Store: An establishment that meets the definition of exclusive liquor store in Minnesota Statutes, section 340A.101, subdivision 10.
- E. Fixed Place of Business: Any form of business operated from a fixed address storefront or other permanent type of structure that is not a Moveable Place of Business.
- F. License: A license issued under this section.
- G. Licensed Product or THC Product: Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72, as the same may be amended from time to time. Licensed Product and THC Product does not include Medical Cannabis.
- H. Medical Cannabis: Medical cannabis shall have the meaning provided in Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time.
- I. Moveable Place of Business: Any form of business operated out of a kiosk, truck, van, automobile, trailer, or other type of vehicle or transportable shelter and is not a fixed address storefront or other permanent type of structure authorized for sales transactions.
- J. Natural Person: A human being.
- K. Retail Establishment: Any place of business where licensed products is available for sale to the general public.
- L. Restaurant: The term “restaurant” shall have the meaning given in Minn. Stat. § 157.15, Subd. 12, as the same may be amended from time to time.
- M. Sale: Any transfer of goods for money, trade, barter, or other consideration.
- N. School: Any public or private elementary, vocational, or secondary school, or a public or private college or university, pre-school, or a state licensed day care center.
- O. Self-Service Merchandising: Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee.

- P. Vending Machine: Any mechanical, electric, electronic, or other type of device that dispenses licensed products upon the use of cash, coins, tokens, credit or debit card, personal identification number, or any form of direct or indirect payment, by the person seeking to purchase the licensed product.

Subd. 3. **License.**

- A. License Required. No natural person, corporation, partnership, limited liability company, business entity, or organization of any type shall sell, donate, give away, or otherwise transfer any THC product, or offer to do so, without first having obtained a license to do so from the City.
- B. Application. An application for a license to sell THC products shall be made on a form provided by the City and approved by the City Council. Every application for a license shall be verified and filed with the City Clerk or the City Clerk's designee. The application shall contain:
- i. Form of Applicant. The application shall show whether the applicant is a natural person, corporation, partnership, limited liability company, or other form of organization.
 - a. Natural Person. If the applicant is a natural person, the following information shall be required:
 1. Full legal name, place and date of birth and street address of applicant.
 2. Whether the applicant has ever used or been known by a name other than his or her true legal name and, if so, what was such name or names, and information concerning dates and places where used.
 3. The name of the business if it is to be conducted under a designation, name, or style other than the full individual name of the applicant.
 4. Street addresses at which applicant lived during the preceding five (5) years.
 5. Kind, name and location of every business or occupation applicant has been engaged in during the preceding five (5) years.
 6. Names and addresses of applicant's employers and business partners, if any, for the preceding five (5) years.
 7. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance, other than traffic offenses, except that alcohol related driving offenses shall be reported. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
 8. Whether applicant has ever been engaged as an employer or in operating a business of a similar nature. If so, applicant shall furnish information as to the time, place, and length of time of such operation.

9. Whether applicant has ever been in the military service. If so, applicant shall upon request exhibit all discharges.
 10. The name of the operating officer, manager or proprietor or other agent in charge of the premises to be licensed, if different than the applicant.
 11. Certification that the applicant has liability insurance covering the applicant's sale of THC products with minimum single occurrence coverage of no less than \$1,000,000.00.
- b. Partnership or Limited Liability Partnership. If the applicant is a partnership or limited liability partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant in subdivision 3.B.i.a. above. A managing partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the applicant's partnership agreement, if any, shall be submitted with the application. If and in the event the composition of the partnership shall change at any time subsequent to the initial application, any amended partnership agreements must be filed with the City.
- c. Corporation, Limited Liability Company, or other Business Entity. If the applicant is a corporation, limited liability company, or any other business entity, the following information shall be required:
1. Company name and state of incorporation or organization.
 2. A true copy of Certificate of Incorporation or Organization, Articles of Incorporation or Organization, and, if a foreign corporation, any certificate of authority to conduct business in the state of Minnesota as may be required by state law.
 3. The name of the operating officer, manager, proprietor, or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a single applicant in subdivision 3.B.i.a. above.
 4. A list of all persons who, whether individually or with another, own or control any interest in said corporation or association together with their addresses and all information as is required of a single applicant in subdivision 3.B.i.a. above.
 5. The name of the business if it is to be conducted under a designation, name, or style other than the full legal name of the applicant.
- d. Legal Description and Street Address. The street address and exact legal description of the premises to be licensed, together with a plan, sketch, or drawing of the area showing dimensions, location of buildings, street access, parking facilities and the locations of and distances to the nearest place of worship and school building. If the Applicant is not the owner of the premises to be licensed, the owner of the premises must sign the

application and agree to be a co-licensee, subject to all of the terms, provisions and restrictions of this ordinance.

- e. Floorplan. A diagram or sketch depicting the licensed premises and the area within the licensed premises where the licensed product will be sold.
 - f. Age 21 and Older Retailer. Certification as to whether access to the licensed premises will be limited to persons age 21 or older.
 - g. Disclosure of Ownership Interests. At the time of application, each applicant that is not a natural person shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.
 - h. Additional Information. Any additional information the city deems necessary.
- C. Incomplete Application. If the City Clerk or the Clerk's designee determines that an application is incomplete, they shall return the application to the applicant with notice of the information needed to make the application complete.
- D. Investigation. Upon receipt of an application for a license under this section, the City shall conduct a background investigation on all new applications and applications to transfer a license. The applicant shall pay with the application a nonrefundable investigation fee set annually by resolution of the City Council. The City shall request that its Chief of Police 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 application for renewal of a license, it shall so determine. 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 Apprehension for

the investigation. 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. Upon completion of the investigation, the Chief of Police shall make a written report and recommendation to the City Council of his or her findings, including a specific report on any violations of federal or state law or municipal regulations.

- a. As an alternative to the investigation process set forth in Subdivision 3.D, an applicant may pay a nonrefundable investigation fee set annually by resolution of the City Council and submit the results of a comparable background investigation completed by an agency of the State of Minnesota within the twelve (12) months prior to the application. To do so, the applicant must authorize the city to obtain any and all related information from said agency so that the Council may review it to determine if any additional investigation is necessary. If the Council determines that the agency's investigation is insufficient for these licensing purposes, the Council may then require the investigation described in Subdivision 3.D.
- E. Public Hearing. For initial and renewal applications, upon receipt of the written report and recommendation by the Police Chief of the City of Barnesville, and within twenty-one (21) days thereafter, the City Clerk shall cause to be scheduled a public hearing, with notice thereof to be published in the official newspaper ten (10) days in advance of the scheduled hearing, setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business, and such other information as the Council may direct. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.
 - F. Action. The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. A four-sixths vote of the City Council shall be required for the granting of any license and approval by the mayor. If the City Council and Mayor approve the license, the City Clerk shall issue the license to the applicant. If the City Council or Mayor denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision pursuant to Subdivision 6 of this section. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.
 - G. Term. All licenses issued under this section shall be valid from January 1 until December 31. All License fees shall be for the full amount. License fees shall not be prorated for any portion of the year remaining on an initial application.
 - H. Revocation or Suspension. Any license issued under this article may be revoked or suspended whenever the City Council deems there is cause to do so. Cause exists whenever a licensee violates any provision of this section or no longer meets the license eligibility requirements of this section.
 - I. Transfers. All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued.

The transfer of any license to another location, business, or person is prohibited, except as provided herein for successors of licensees.

- J. Display. The licensee shall post and display on the licensed premises and in plain public view any license issued hereunder.
- K. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application, provided, however that the City Council may waive the requirement of a background and financial check on an application for a renewal of a license if the City Council deems it is in the public interest to do so. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- L. Issuance as Privilege and Not a Right. The issuance of a license issued under this section is a privilege and does not entitle the applicant to a license, nor does it entitle a license holder to automatic renewal of the license.

Subd. 4. **Fees.**

- A. Fee Required. No license shall be issued under this section until the appropriate license fee shall be paid in full.
- B. Fee. The nonrefundable annual fee for a license under this section shall be \$650.00. This license fee may be amended by the City Council in the City's fee schedule.
- C. Payment. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee. 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 a license fee.

Subd. 5. **Ineligibility and Basis for Denial of License.**

- A. Ineligibility.
 - i. Moveable Place of Business. No license under this section shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
 - ii. Exclusive Liquor Store. No license shall be issued to an exclusive liquor store as defined in Minnesota Statutes, section 340A.101, subdivision 10, as the same may be amended from time to time.
 - iii. Financial Delinquencies. No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, as the same may be amended, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.
 - iv. On-Sale Liquor Licensees. No license shall be issued to the holder of an on-sale beer, wine, or liquor license issued by the City of Barnesville.

- v. Restaurants. No license shall be issued to any restaurant.
 - vi. Zoning Ordinance Applies. No license shall be issued for a location not zoned for the sales proposed by the applicant.
- B. Grounds for Denial. Grounds for denying the issuance or renewal of a license under this section include, but are not limited to, the following:
- i. The applicant, or any owner of an applicant that is not a natural person, is under the age of 21 years.
 - ii. The applicant is prohibited by Federal, State, or other local law, ordinance, or other rule or regulation from holding a license.
 - iii. The applicant has been convicted within the past five years for any: violation of a Federal, State, or local law relating to the licensed products or any controlled substance law; or misdemeanor or felony, including alcohol-related driving offenses but excluding other traffic offenses.
 - iv. The applicant has had a license to sell licensed products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
 - v. The applicant has had any license issued by the City or any other jurisdiction suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises, whether in the City or in another jurisdiction, that has had a license suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
 - vi. The applicant is a business that does not have an operating officer manager, proprietor, or other agent who is eligible pursuant to the provisions of this section.
 - vii. The applicant is the spouse of a person ineligible for a license pursuant to this section or who, in the judgement of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
 - viii. The applicant fails to provide any information required on the application or provides false or misleading information. Any false or misleading statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution or license denial, revocation, or suspension for violation of this section, or any part thereof.
 - ix. The proposed licensed premises is located within 300 feet of any school or addiction recovery center. The distances herein referred to shall be measured in a straight line from the nearest property boundary of the licensed premises to the nearest property boundary of the school or addiction recovery center.

x. A license issued under this section shall be for a single fixed location only.

C. Issuance of License by Mistake. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery of the mistake, and the City shall provide the licensee with a notice of revocation, along with information on the right to appeal.

Subd. 6. Procedure upon Denial, Suspension, Non-Renewal, or Revocation of License.

A determination by the City to deny, suspend, revoke, or not renew any license under this section may be appealed to the City Council of Barnesville by filing with the City Clerk a written Notice of Appeal within fifteen (15) days of the date on which notice of the City's denial, suspension, or revocation is mailed to the licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days but not more than forty-five (45) days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the City Council. The licensee or applicant shall present to the City Council the basis for the determination being appealed, and the City Council may receive and consider any evidence it deems relevant to the issue. After the hearing, the Council may uphold, reverse, or modify the prior decision based upon the provisions of this Ordinance and upon the protection of the public health, safety, or general welfare. The City Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the City Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

Subd. 7. Prohibited Acts.

A. In general. No person shall sell, donate, give away, or otherwise dispense or distribute any licensed product, or offer to do so:

- i. By means of any type of vending machine.
- ii. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the edible cannabinoid products and whereby there is not a physical exchange between the licensee, or the licensee's employee, and the customer.
- iii. By any other means, to any other person, on in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
- iv. That is not packaged in strict compliance with state laws, rule, and regulations.
- v. From any location other than a fixed place of business that is a licensed premise. Delivery of licensed products from a licensee to a purchaser who is located off the licensed premises is strictly prohibited.
- vi. By any form of internet/online transaction.
- vii. By acceptance or redemption of any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any THC products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

viii. Between the hours of 10:00 p.m. and 5:00 a.m.

B. **Controlled Substances.** No person shall sell, offer to sell, or otherwise provide any licensed products containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances not authorized by state or federal law.

C. **Legal Age.**

i. **Age to Sell.** No person under the age of 18 shall sell any licensed product to any person.

ii. **Age to Purchase.** No person, regardless of license status, shall sell any licensed product to any person under the age of 21.

iii. **Age verification.** Licensees, including their employees and representatives, shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age.

iv. **Signage.** All licensees shall post and display in plain view of the general public on the licensed premise, a sign supplied by the City of Barnesville, which shall state that it is illegal to sell licensed products to anyone under the age of 21 years and that the possession and use of such items by anyone under the age of 21 is also illegal under state, federal, and/or local law. Said signs shall be issued to the licensee along with their license.

D. **Samples Prohibited.** No person shall distribute samples of any licensed product free of charge or at a nominal cost. Sampling is prohibited on any licensed premises.

E. **Other Prohibitions.** No person shall sell, offer to sell, or otherwise provide, dispense, or distribute any licensed products by any means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation. Possession on the premises by the licensee of any licensed product in a package indicating that the contents do not comply with the requirements of state laws, rules, or regulations shall be prima facie evidence that the contents of the package violate this ordinance. It shall be the licensee's burden to prove, by a preponderance of the evidence, that the contents do comply.

F. **Sales to Obviously Intoxicated or Impaired Persons.** No person shall sell, give, furnish, dispense, distribute, or in any way procure for another person any licensed products for use by an obviously intoxicated person or a person who is obviously impaired by or under the influence of licensed products or any controlled or intoxicating substance.

G. **On-Site Consumption Prohibited.** No licensed product may be sold, given, distributed, dispensed, or otherwise furnished for consumption or use on any premises that holds a license issued under this section.

Subd. 8. **Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this Ordinance:

A. **Illegal Possession.** It shall be a violation of this ordinance for any person under the age of 21 to have any THC product in his or her possession. This subdivision shall not apply to persons under the age of 21 who are lawfully involved in a compliance check or to

employees of a licensee who are at least 18 years of age and are acting in the course and scope of their employment for a licensee.

- B. **Illegal Use.** It shall be a violation of this ordinance for any person under the age of 21 to consume or otherwise use any licensed product.
- C. **Illegal Procurement.** It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any licensed product, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a person under 21 years of age. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any licensed product. This subpart shall not apply to persons under 21 years of age who are lawfully involved in a compliance check.
- D. **Use of False Identification.** It shall be a violation of this ordinance for any person under 21 years of age to attempt to disguise his or her true age by the use of any form of false identification, including but not limited to an identification card of another real or fictional person and one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.
- E. **Tampering with Package.** No licensee shall directly or through any other person alter or tamper with the contents of any original package so as to change its composition or THC content while in the original package. Possession on the premises by the licensee of any licensed product in a package differing in composition or THC content in the product when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package has been changed or tampered with. It shall be the licensee's burden to prove, by the preponderance of the evidence, that the contents have not been tampered with.
- F. **Restrictions on Consumption and Use.** No person shall consume or possess licensed products on a public street, highway, sidewalk, park, public or private school property, or in any public facility, on any form of public transportation or transit, at any other public place, or at any location where medical cannabis possession and use are prohibited by Minn. Stat. § 152.23, as the same may be amended from time to time. Provided, however, that nothing herein shall prohibit any person from possessing a licensed product while using a public street, highway, or sidewalk to travel directly from the point of a lawful purchase to a place of lawful use.
- G. **Taxicabs.** No person shall consume licensed products while riding in any taxicab licensed by the City. No person who is licensed by the City to operate a taxicab shall operate a taxicab while possessing, using, or being under the influence of any licensed product.
- H. **Other City-Issued Licenses.** No person shall possess, use, distribute, or be under the influence of any licensed product while performing any task for which any license has been issued by the City. A violation of this subpart shall be grounds for suspension, revocation, or non-renewal of any such license.

Subd. 9. **Storage.** Unless the licensee restricts access to the entire licensed premises to persons age 21 or older, all licensed products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

Subd. 10. **Responsibility.** All licensees are responsible for the actions of their employees, agents, and other representatives in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee or other representative of a licensee shall be considered an act of both the employee or representative and the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting a licensee's employee, agent, or other representative to any civil penalties or criminal prosecution that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

Subd. 11. **Compliance Checks and Inspections.**

- A. All premises licensed under this subdivision shall be open to inspection by the City during regular business hours. The City shall conduct compliance checks at its discretion.
- B. No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.
- C. Additionally, from time to time, the city will conduct inspections to determine compliance with any or all other aspects of this ordinance.

Subd. 12. **Violations and Penalty.**

- A. Administrative Civil Penalties. If a licensee or an employee or representative of a licensee is found to have violated this section, the licensee shall be charged an administrative penalty as follows:
 - i. First Violation. The City shall impose a civil fine of \$500.00 and suspend the license for not less than 2 consecutive business days.
 - ii. Second Violation Within 36 Months. The Council shall impose a civil fine of \$1,000.00 and suspend the license for not less than 5 consecutive business days.
 - iii. Third Violation Within 36 Months. The Council shall impose a civil fine of \$2,000.00 and suspend the license for not less than 10 consecutive days.
 - iv. Fourth Violation Within 36 Months. The Council shall revoke the license for not less than one year.
- B. Administrative Penalty Procedures. Notwithstanding anything to the contrary in this section, if one of the foregoing penalties is imposed by the City, no penalty shall take effect until the licensee or person has been served with notice (served personally or by mail delivered to the business address of the licensee) of the alleged violation and of the opportunity for a hearing before the Administrative Hearing Board, and such notice must be in writing and must provide that a right to a hearing before the Administrative Hearing Board must be requested within seven (7) business days of mailing or personal service of the notice or such hearing right shall terminate.

- C. Misdemeanor Prosecution. Violation of this ordinance is a misdemeanor. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.
- D. Continuing Violations. Each day that a violation of this section continues shall be considered a separate offense.

Subd. 13. **Medical Cannabis Manufacture, Dispensing, and Use.** Nothing herein shall be construed to prohibit, prevent, impede, or otherwise change any person's right to lawfully manufacture, obtain, dispense, distribute, possess, prescribe, or use medical cannabis in compliance with state law. Provided, however, that nothing herein shall be construed to grant or expand those rights.

Subd. 14. **Severability.** If any part of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Subd. 15. **Provisions of State Law Adopted.** The provisions of Minn. Stat. § 151.72, relating to licensed products are adopted and made a part of this ordinance as if set out in full.

Subd. 16. **Effective Date.** This ordinance becomes effective upon its final passage and publication or January 1, 2023, whichever is later.

Adopted by affirmative vote of five of the six (6) Ward Representatives of the City Council, constituting a majority of the Ward Representatives of the City of Barnesville on this 13th day of February, 2023, by the following vote:

YES: ____5____
NO: ____0____
ABSENT: __1____

Approved by the Mayor this 13th day of February, 2023

Jason Rick, Mayor

ATTEST: _____
Jeri Reep
City Clerk

Mayor Rick stated the next item on the agenda was the 2023-01 summary ordinance.

02-13-23-06 Motion by Mrs. Stokka and second by Mrs. Bergman to approve the 2023-01 summary ordinance. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2023-01

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amending Title IV of the Barnesville City Code Relating to Tetrahydrocannabinol Product Sales

2. Summary of Ordinance:

This ordinance amends Barnesville City Code to add Section 4-04 subd 1-16, relating to the Tetrahydrocannabinol Product Sales (THC Products).

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 13th day of February 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023

Second Reading: February 13, 2023

Adopted: February 13, 2023

Published: February 20, 2023

Mayor Rick stated the next item on the agenda was the 2nd reading of Ordinance 2023-02.

City Administrator Jeremy Cossette informed council members that the Planning Commission made some changes to this ordinance since the first reading. The first change was to eliminate restrictions for “wholesale” sales of THC products. The wholesale sales of THC products will be conducted in the same zones that retail sales of THC were recommended and approved with the 1st reading. The other change was to add the term “cannabinoid distillate and THC distillate”, the term was only added for clarification reasons.

02-13-23-07 Motion by Mr. Bauer and second by Mrs. Bergman to approve the 2nd reading of Ordinance 2023-02. Motion carried.

ORDINANCE NUMBER 2023-02

CITY OF BARNESVILLE, MINNESOTA

AN ORDINANCE AMENDING TITLE VII OF THE BARNESVILLE CITY CODE

The Council of the City of Barnesville, Minnesota does ordain:

- 1) Chapter 7-01, Section 7-0104 Subd. 2 of the Barnesville City Code is hereby amended to add the following Definitions:

Cannabinoid Product or THC Product: Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72, as the same may be amended from time to time. Cannabinoid Product and THC Product includes edible cannabinoid products, cannabinoid and THC gummies and cannabinoid and THC distillate, but does not include Medical Cannabis.

Medical Cannabis: Medical cannabis shall have the meaning provided in Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time.

- 2) Chapter 7-01, Section 7-0104 Subd. 2 of the Barnesville City Code is hereby amended to re-number the Definitions in Subd. 2 so that the amendments to that Subdivision adopted herein are inserted in alphabetical order.
- 3) Chapter 7-02, Section 7-0206 Subd. 3. F. of the Barnesville City Code regarding Conditional Uses in the C-1 Central Business District is hereby amended to read as follows:
F. Wholesale Business, except wholesale of Cannabinoid Products or THC Products.
- 4) Chapter 7-02, Section 7-0206 Subd. 3. I. of the Barnesville City Code regarding Conditional Uses in the C-1 Central Business District is hereby amended to read as follows:
I. Light Manufacturing, except manufacture of Cannabinoid Products or THC Products.
- 5) Chapter 7-02, Section 7-0207 Subd. 3. C. of the Barnesville City Code regarding Conditional Uses in the C-2 Commercial District is hereby amended to read as follows:
C. Wholesale Business, except wholesale of Cannabinoid Products or THC Products.

- 6) Chapter 7-02, Section 7-0207 Subd. 3. G. of the Barnesville City Code regarding Conditional Uses in the C-2 Commercial District is hereby amended to read as follows:
G. Light Manufacturing, except manufacture of Cannabinoid Products or THC Products.
- 7) Chapter 7-02, Section 7-0208 Subd. 2. A. of the Barnesville City Code regarding Permitted Uses in the C-3 Commercial Park Business District is hereby amended to read as follows:
A. Retail Business, except sale of Cannabinoid Products or THC Products.
- 8) Chapter 7-02, Section 7-0208 Subd. 3. A. of the Barnesville City Code regarding Conditional Uses in the C-3 Commercial Park Business District is hereby amended to read as follows:
A. Light Manufacturing and assembly, including the manufacture of Cannabinoid Products or THC Products.
- 9) Chapter 7-02, Section 7-0208 Subd. 3 of the Barnesville City Code regarding Conditional Uses in the C-3 Commercial Park Business District is hereby amended to add the following conditional use:
G. Retail sale of Cannabinoid Products or THC Products.
- 10) Chapter 7-02, Section 7-0209 Subd. 2. A. of the Barnesville City Code regarding Permitted Uses in the I-1 Light Industrial District is hereby amended to read as follows:
A. Retail Business, except sale of Cannabinoid Products or THC Products.
- 11) Chapter 7-02, Section 7-0209 Subd. 2. J. of the Barnesville City Code regarding Permitted Uses in the I-1 Light Industrial District is hereby amended to read as follows:
J. Light Manufacturing, including the manufacture of edible cannabinoid products and edible cannabinoid and THC gummies but not including manufacture of cannabinoid and THC distillate.
- 12) Chapter 7-02, Section 7-0209 Subd. 2. P. of the Barnesville City Code regarding Permitted Uses in the I-1 Light Industrial District is hereby amended to read as follows:
P. Wholesale Business, except wholesale of Cannabinoid Products or THC Products.
- 13) Chapter 7-02, Section 7-0209 Subd. 3. A. of the Barnesville City Code regarding Conditional Uses in the I-1 Light Industrial District is hereby amended to read as follows:
A. Manufacturing, including the manufacture of Cannabinoid Products or THC Products.
- 14) Chapter 7-02, Section 7-0209 Subd. 3 of the Barnesville City Code regarding Conditional Uses in the I-1 Light Industrial District is hereby amended to add the following conditional use:
G. Retail sale and Wholesale sale of Cannabinoid Products or THC Products.
- 15) Chapter 7-04, Section 7-0401 Subd. 1. I. of the Barnesville City Code regarding Home Occupations is hereby amended to read as follows:
I. The home occupation shall not involve any of the following: small engine repair, automobile repair or reconditioning, manufacturing, Cannabinoid Product or THC Product sales, Cannabinoid Product or THC Product production or Cannabinoid Product or THC Product manufacture.

This ordinance is adopted by affirmative vote of five of the six (6) Ward Representatives of the City Council,

constituting a majority of the Ward Representatives.

Approved by Mayor this 13th day of February, 2023.

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023

Second Reading: February 13, 2023

This ordinance is effective thirty (30) days after publication.

Published once in the official newspaper of the City of Barnesville on February 23, 2023

Mayor Rick stated the next item on the agenda was the summary ordinance 2023-02.

02-13-23-08 Motion by Mrs. Stokka and second by Mr. Goedtke to approve the summary ordinance 2023-02. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2023-02

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend Chapter 7-01, Section 7-104 Subd.2 of the Barnesville City code Relating to Tetrahydrocannabinol Product Sales.

2. Summary of Ordinance:

This ordinance amends Barnesville City Code to the zoning regulations related to the sales of cannabinoid and tetrahydrocannabinol (THC products).

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 13th day of February 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023
Second Reading: February 13, 2023
Adopted: February 13, 2023
Published: February 20, 2023

Mayor Rick stated the next item on the agenda was the 2nd reading of Ordinance 2023-03 regarding golf fees.

City Administrator Jeremy Cossette stated that there has not been any changes to this ordinance since the first reading.

02-13-23-09 Motion by Mrs. Stuvland and second by Mrs. Stokka to approve the 2nd reading of ordinance 2023-03. Motion carried.

CITY OF BARNESVILLE
ORDINANCE NO. 2023-03

**AN ORDINANCE AMENDING CHAPTER 19, SEC. 2.63 OF THE MUNICIPAL CODE REGARDING
PARK AND RECREATION FEES AND CHARGES.**

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

CHAPTER 19, SECTION 2.63 is amended to read as follows:

Sec. 2.63 Park and Recreation Fees and Charges

A. Golf Course Fees

Greens Fees:

	Weekday	Weekend
9-hole adult	\$15.00	\$22.00
18-hole adult	\$22.00	\$30.00
9 holes 17 & under	\$13.00	\$20.00
18 hole 17 & under	\$19.00	\$28.00
9 hole age 11 & under with adult	Free	\$17.00
18 hole age 11 & under with adult	Free	\$24.00
All Day	\$35.00	\$40.00
Mon-Tues Special 18 Holes with a cart	\$25.00	
Decking Trail Fee per day	\$9.00	

Season Passes

Immediate Family living in	\$440.00
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the same household	
Husband & Wife	\$390.00
Single - 18 & over	\$285.00
Single – 17 & under	\$95.00
Docking Trail Fee per year	\$80.00
Rentals	
Motor Car 9 holes	\$20.00
Motor Car 18 holes	\$27.00
Motor Car all day	\$35.00
Pull Cart	\$5.00
Clubs and bag	\$6.00

Storage

Gas car per year	\$200.00
Electric car per year	\$225.00
Clubs – no private door	\$20.00
per year	
Clubs – private door per	\$30.00
year	

PASSED AND ADOPTED by the Barnesville City Council this 13th day of February, 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023
Second Reading: February 13, 2023
Adopted: February 13, 2023
Publication: February 20, 2023

Mayor Rick stated the next item on the agenda was the approval of Summary Ordinance 2023-03.

02-13-23-10 Motion by Mrs. Stokka and second by Mrs. Bergman to approve the Summary Ordinance 2023-03. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2023-03

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend Chapter 19, Sec. 2.63 of the Municipal Code Regarding Park and Recreation Fees and Charges

2. Summary of Ordinance:

This ordinance creates an updated fee and charges for the golf course fees.

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 13th day of February 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023
Second Reading: February 13, 2023
Adopted: February 13, 2023
Published: February 20, 2023

Mayor Rick stated the next item on the agenda was the 2nd reading of Ordinance 2023-04, regarding hunting of migratory waterfowl and other nuisance animals at the City's wastewater treatment ponds.

02-13-23-11 Motion by Mrs. Bergman and second by Mr. Bauer to approve Ordinance 2023-04. Motion carried.

ORDINANCE NUMBER 2023-04

CITY OF BARNESVILLE, MINNESOTA

AN ORDINANCE AMENDING THE BARNESVILLE CITY CODE

The Council of the City of Barnesville, Minnesota does ordain:

Section 6-0601 Subd. 4 of the Barnesville City Code is hereby amended to read as follows:

Subd. 4. Exceptions. Nothing in Subdivision 3 of this Section shall apply to:

A. Display of fireworks by an organization, or group of organizations, authorized in advance in writing by the City Council.

- B. A peace officer in the discharge of his or her duty.
- C. A person in the lawful defense of his or her person or family.
- D. Persons hunting in the Agricultural District after payment of a fee and obtaining a permit from the city. All persons hunting in the Agricultural District of the City shall be lawfully licensed and permitted to do so by all applicable Federal and State laws, shall hunt only during the appropriate days and dates and times prescribed by State law, shall not discharge any firearm within 500 feet of any building occupied by humans or livestock and shall follow all of the rules and regulations prescribed by State and Federal law for hunting.
- E. Persons hunting migratory waterfowl and other nuisance animals such as beaver or muskrat at the City's wastewater treatment ponds when authorized to do so in advance in writing by the City Council after payment of a fee and obtaining a permit from the City, provided that the person is lawfully licensed and permitted to do so by all applicable Federal and State laws, is hunting only during the appropriate days and dates and times prescribed by Federal and State law, does not discharge any firearm within 500 feet of any building occupied by humans or livestock and follows all of the rules and regulations prescribed by State and Federal law for hunting migratory waterfowl and other nuisance animals, including but not limited to beaver and muskrat.

Section 6-0602 Subd. 2 of the Barnesville City Code is hereby amended to read as follows:

Subd. 2. Unlawful Acts. It is unlawful for any person to carry or discharge a firearm which is not an encased firearm or dismantled firearm, except:

- A. In a range or area equipped for target practice which has been specifically described and approved by the City Council.
- B. Law enforcement officers in the line of duty.
- C. When necessary, in the lawful defense of person or family.
- D. When hunting in the Agricultural District after payment of a fee and obtaining a permit from the city, except that bow and arrow hunting is permitted. All persons hunting in the Agricultural District of the City shall be lawfully licensed and permitted to do so by all applicable Federal and State laws, shall hunt only during the appropriate days and dates and times prescribed by State law, shall not discharge any firearm within 500 feet of any building occupied by humans or livestock and shall follow all of the rules and regulations prescribed by State and Federal law for hunting.
- E. When hunting in migratory waterfowl and other nuisance animals such as beaver and muskrat at the City's wastewater treatment ponds when authorized to do so in writing by the City Council after payment of a fee and obtaining a permit from the city. All persons hunting at the City wastewater treatment ponds shall be lawfully licensed and permitted to do so by all applicable Federal and State laws, shall hunt only during the appropriate days and dates and times prescribed by Federal and State law, shall not discharge any firearm within 500 feet of any building occupied by humans or livestock and shall follow all of the rules and regulations prescribed by State and Federal law for hunting migratory waterfowl and other nuisance animals, including but not limited to beaver and muskrat.

This ordinance is adopted by affirmative vote of five of the six (6) Ward Representatives of the City Council,

constituting a majority of the Ward Representatives. Council member Field was absent.

Approved by the Mayor this 13th day of February, 2023.

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023

Second Reading: February 13, 2023

Adopted: February 13, 2023

Published: February 20, 2023

This ordinance is effective thirty (30) days after publication.

Published once in the official newspaper of the City of Barnesville on February 20, 2023

Mayor Rick stated the next item on the agenda was the approval of Summary Ordinance 2023-04.

02-13-23-12 Motion by Mrs. Stokka and second by Mr. Goedtke to approve the Summary Ordinance 2023-04. Motion carried.

TITLE AND SUMMARY OF ORDINANCE NO. 2023-04

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Amend Chapter 6-0601 and 6-0602 of the Barnesville City code for hunting of migratory waterfowl and other nuisance animals at the City's wastewater treatment ponds located in the City of Barnesville

2. Summary of Ordinance:

This ordinance amends Barnesville City Code to the zoning regulations related to hunting of migratory waterfowl and nuisance animals.

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 13th day of February, 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: January 9, 2023

Second Reading: February 13, 2023

Adopted: February 13, 2023

Published: February 20, 2023

Mayor Rick stated the next item on the agenda was the 1st reading of Ordinance 2023-05, an Ordinance increasing the membership to the Park Board.

City Administrator Jeremy Cossette informed council members that the Park Board would like to increase the membership to their board.

02-13-23-13 Motion by Mrs. Stokka and second by Mr. Bauer to approve the 1st reading of Ordinance 2023-05. Motion carried.

ORDINANCE 2023-05

AN ORDINANCE AMENDING THE BARNESVILLE CITY CODE

ESTABLISHING A

PARKS AND RECREATION ADVISORY BOARD

The Council of the City of Barnesville, Minnesota does ordain:

Section 1: Repeal and Amendment

Ordinance No. 1994-1, an Ordinance establishing and providing for a Parks and Recreation Board in the City of Barnesville and providing for its organization, power and duties, is hereby repealed.

Barnesville City Code Section 1-0604 is Amended to read as follows:

Section 2-Establishment of board:

A city Parks and Recreation Advisory Board of the City of Barnesville (hereinafter the “Board”) is hereby established.

Section 3: Composition and membership:

The Board shall consist of nine members from the resident population of the city, with at least one member from each of the city’s three wards, and two members of the City Council, to be appointed by the Mayor with the approval of the council, for a total of nine members. The appointees shall be appointed to serve staggered terms of three years, except as noted below, commencing on the first day of January in the first year of appointment. Upon expiration of a term, the appointee shall continue to serve until re-appointed or a successor is appointed. Absence from any three meetings in a calendar year, unless excused in advance by the Secretary, constitutes a vacancy. In the event of any vacancy, the Mayor, with the approval of the City Council, shall appoint a person to complete the unexpired term.

The term of the City Council ~~member~~ members appointed shall be a two year term to expire on December 31st of the second year.

Each of the nine regular Board members shall have equal voting privileges. Any member may be removed for cause by a two-thirds vote of the City Council.

The city’s Public Work Supt. shall serve as an ex officio member of the Board. Other persons may serve in an ex officio capacity as the City Council may in its discretion deem appropriate.

Section 4: Organization, meetings, etc.

At the first regular meeting in January, the Board shall elect a chairperson, a vice chairperson and a secretary from among its appointed members, each for a term of one year; and the Board may create and fill such other offices as it may determine. The Board shall hold such meetings each month at such time and place as they may fix by resolution, after due notice as required by the Minnesota Open Meeting law. Special meetings may be called at any time by the chairperson, or in case of the chairperson’s absence by the vice chairperson, with notice as required by the Minnesota Open Meeting law. Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to approval at the next Board meeting.

No expenditures by the Board shall be made, unless, and until, authorized for the purpose by the council.

Section 5: Duties and powers of the Board

The Board shall advise the City Council as to the control, development, management, operation and maintenance of a system of parks and recreation areas now in existence or that may hereafter be acquired by the City. The board shall also make personnel and property acquisition recommendations to the City Council.

The Board will make recommendations for, and assist with the planning of, city beautification and city parks.

Section 6: Effective date

This ordinance shall be in full force and effect from and after its passage, adoption and publication according to law.

This ordinance is adopted by affirmative vote of five of the six (6) Ward Representatives of the City Council, constituting a majority of the Ward Representatives.

Approved:

Jason Rick, Mayor

Attest:

Jeri Reep
City Clerk

First Reading: February 13, 2023

Second Reading: March 13, 2023

Adopted: March 13, 2023

Published: March 20, 2023

Mayor Rick stated the next item on the agenda was the 1st reading of Ordinance 2023-06, regarding a liquor license change.

City Attorney Charlie Ramstad informed council members that some changes will be made to the Ordinance for the 2nd reading, but due to a possible sale of a business on Main Street this is a time sensitive issue.

02-13-23-14 Motion by Mr. Bauer and second by Mrs. Bergman to approve the 1st reading of Ordinance 2023-06. Motion carried.

ORDINANCE 2023-06

AN ORDINANCE AMENDING CITY CODE CHAPTER IV, BUSINESS LICENSES AND REGULATIONS OF THE REVISED CITY CODE OF 2013 REGARDING ALCOHOL BUSINESS LICENSING

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

WHEREAS, Chapter IV of the Municipal Code of the City of Barnesville 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. \$25

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 a combination license shall be, 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. 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.

EFFECTIVE DATE: This ordinance shall become effective upon its passage and enactment, followed by publication according to law.

PASSED AND ADOPTED by the Barnesville City Council this 13th day of February, 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

First Reading: February 13, 2023
Second Reading: March 13, 2023
Adopted: March 13, 2023
Publication: March 20, 2023

Mayor Rick stated the next item on the agenda was the 4th Street NE sewer improvements.

City Administrator Jeremy Cossette informed council members that two bids were received for the work on the 4th Ave NE sewer project. The lowest bid was from Dirt Dynamics in the amount of \$121,255.00. With the continued expansion to the east and with our required backwash water produced by the Water Treatment Plan, we strain the 4th Ave NE section of town, and run the risk of flooding basements. There is sufficient grade to reroute the sewer flows by adding a 1 block stretch of sanitary sewer main that will bring the sewage to a larger trunk pipe

and alleviate the “at capacity” flows traveling across the walking bridge. Public Works and Personnel & Finance committees recommend approval.

02-13-23-15 Motion by Mr. Bauer and second by Mrs. Stokka to approve the bid from Dirt Dynamics in the amount of \$121,255.00 for the 4th Street NE sewer improvements. Motion carried.

Mayor Rick stated the next item on the agenda was the resolution authorizing investment signers.

02-13-23-16 Motion by Mrs. Bergman and second by Mrs. Stokka to approve the resolution accepting the official signers of the investments for the City of Barnesville. Upon a roll call vote, the following voted aye: Council member Stokka, Goedtke, Stuvland, Bauer, and Bergman. The following were absent: Council member Field. Motion carried.

CITY OF BARNESVILLE

COUNTY OF CLAY

STATE OF MINNESOTA

RESOLUTION NO. 02-13-23-16

Resolution Accepting City Administrator Jeremy Cossette and Mayor Jason Rick as signers of the investment for the City of Barnesville

WHEREAS: Former City Administrator Brenda Andrews is no longer representing the City for City Business and still listed as a signer on the investment accounts; and,

WHEREAS: Current Mayor, Jason Rick, and Current City Administrator, Jeremy Cossette is representing the City of Barnesville for City Business; and,

WHEREAS: the investment account needs to reflect the current representatives.

NOW, THEREFORE, BE IT RESOLVED that the Barnesville City Council authorized the City Administrator, Jeremy Cossette, and Mayor Jason Rick to execute the investments between Ehlers and the City of Barnesville.

Adopted by the City Council of the City of Barnesville this 13th day of February, 2023.

Jason Rick, Mayor

Attest:

Jeri Reep, City Clerk

Mayor Rick stated the next item on the agenda was the Great River Energy Eminent Domain update.

City Attorney Charlie Ramstad updated council members on the Great River Energy and Lehman case.

02-13-23-17 Motion by Mrs. Stokka and second by Mr. Goedtke to authorize City Attorney Charles Ramstad to approve of the settlement in the Great River Energy and Matthew Lehman and Jessica Lehman case. Motion carried.

Mayor Rick adjourned the meeting at 7:50 p.m.

Submitted by:

Attest:

Jeri Reep
City Clerk

Jason Rick
Mayor

