

ORDINANCE 2023-06

AN ORDINANCE AMENDING CITY CODE TITLE IV, CHAPTER 4-01, BUSINESS LICENSES AND REGULATIONS OF THE REVISED CITY CODE OF 2013 REGARDING LICENSING OF ALCOHOLIC BEVERAGE SALES

THE CITY OF BARNESVILLE DOES HEREBY ORDAIN:

Chapter 4-01 of the Barnesville City Code is hereby amended to read as follows:

**CHAPTER 4-01
ALCOHOLIC BEVERAGES**

SECTIONS:

- 4-0101. Provisions of State Law Adopted.
- 4-0102. Liquor License.
- 4-0103. Beer License.
- 4-0104. Application.
- 4-0105. License Fees.
- 4-0106. Granting of License.
- 4-0107. Unlawful Acts.
- 4-0108. Minors - Unlawful Acts.
- 4-0109. Gambling.
- 4-0110. Consumption and Possession of Alcoholic Beverages on Streets, Public Property, and Private Parking Lots to Which the Public has Access.
- 4-0111. Alcoholic Beverages in Certain Buildings and Grounds.
- 4-0112. Municipal Dispensary.
- 4-0113. Nudity or Obscenity Prohibited.
- 4-0114. Penalty

SEC. 4-0101. PROVISIONS OF STATE LAW ADOPTED. As used in this Chapter, unless otherwise stated in specific sections. the 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 by references, as if set out in full.

SEC. 4-0102. LIQUOR LICENSE.

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 chapter. Liquor licenses shall be the following kinds: on-sale, Sunday on-sale, club, wine, on-sale brewer taproom, on-sale brew pub malt liquor, off-sale brewer malt liquor, on-sale micro distillery cocktail room or special license for Sports, Conventions and Community Festivals.

Subd. 2. On-Sale Liquor Licenses. "On-sale" liquor licenses shall be issued only to hotels, motels, restaurants bowling centers and to theaters as defined by Minn. Stat. 340A.101, and shall permit "on-sale" of liquor only. Any restaurant licensed hereunder must have a minimum seating capacity of 30 in its formal dining area. Any hotel-motel licensed hereunder must have a minimum seating capacity of 30 in its formal dining area and have at least 10 rooms available for guests.

Subd. 3. On-Sale Wine Licenses. "On-sale" wine licenses shall be issued only to restaurants meeting the qualifications of Minn. Stat. 340A.404, Subd. 5 and to theaters as defined by Minn. Stat. 340A.101 and shall only permit the sale of wine not exceeding twenty-four percent (24%) alcohol by volume for consumption on the licensed premises. Any restaurant licensed hereunder shall have seating capacity for no fewer than 30 guests at one time. The holder of an on-sale wine license issued pursuant to this Chapter who is also licensed to sell beer at on-sale, and whose gross receipts are at least 60% attributable to the sale of food, is authorized to sell intoxicating malt liquor at on-sale without an additional license.

Subd. 4. Club Licenses. Club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence for at least three years and liquor sales will only be to members and bona fide guests.

Subd. 5. Sunday On-Sale. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, motel, or restaurant or club which has an on-sale license.

Subd. 6. Temporary On-Sale License. Temporary on-sale licenses may be granted to a club or charitable, religious or other non profit organization in existence for at least three years, political committee registered under Minn. Stat. 10A.14, a state university, brewer who manufactures fewer than 3,500 barrels of malt liquor in a year or a micro distillery for the on-sale of wine or intoxicating liquor in connection with a social event within the City sponsored by the licensee. The license may authorize the on-sale of wine or intoxicating liquor for not more than four (4) consecutive days, and may authorize on-sales on premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor licensee. No more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under section 340A.404, subdivision 10, for the sale of alcoholic beverages may be issued to any one organization or registered political committee, or for any one location, within a 12-month period.

Subd. 7. On-Sale Brewer Taproom. The city may issue an On Sale Brewer Taproom license to a brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (c), (I) or (j) for the "on-sale" of malt liquor produced on the licensed premises for consumption on the premises of or adjacent to the brewery location owned by the brewer, subject to the following conditions:

A. The on-sale of malt liquor may only be made during the days and hours that on-sale of liquor may be made, as prescribed by State law and this chapter. Notwithstanding the provisions of Min. Stat. §340A.504 Subd. 3, a taproom may be open and may conduct on-sale business on Sundays if authorized by the City in the license.

B. A brewer may hold only one (1) On-Sale Brewer Taproom license, and may not have an ownership interest in a brew pub.

C. The holder of an On-Sale Brewer Taproom license who also holds an Off Sale Brewer Malt Liquor License is permitted to sell malt liquor packaged pursuant to Minnesota Rules, parts 7515.1080 to 7515.1120.

D. An On-Sale Brewer Taproom license may not be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews or produces more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by Minn. Stat. §340A.301.

Nothing in this subdivision requires, precludes or prohibits the holder of an On-Sale Brewer Taproom license from also holding a license to operate a restaurant on the premises of the brewery. The City shall, within ten (10) days of the issuance of an On-Sale Brewer Taproom license, inform the commissioner of the licensee's name, address and trade name and the effective date and expiration date of the license. The City shall also inform the commissioner of a license transfer, cancellation, suspension or revocation during the license period.

Subd. 8. On-Sale Brew Pub Malt Liquor. A brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (d) may be issued an On Sale Brew Pub Malt Liquor license by the City for the "on-sale" of malt liquor produced on the licensed premises for consumption on the licensed premises owned by the brewer, or for off sale from the licensed premises as permitted in Subd. 9, subject to the following conditions:

A. The holder of an On-Sale Brew Pub Malt Liquor license must operate a restaurant at the licensed premises where the malt liquor is manufactured and sold. The holder of an On-Sale Brew Pub Malt Liquor license may hold or have an interest in other retail on-sale licenses.

B. The on-sale of malt liquor may only be made during the days and hours that "on-sale" of liquor may be made, as prescribed by State law and this chapter. Notwithstanding the provisions of Min. Stat. §340A.504 Subd. 3, a Brew Pub may be open and may conduct on-sale business on Sundays if authorized by the City in the license. The off-sale of malt liquor may only be made during the days and hours of off-sale at the exclusive liquor store in the City, and all malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at the City exclusive liquor store, except that malt liquor in "Growlers" only may be sold at off-sale on Sundays if authorized by the City in the license with hours established by the City.

C. The holder of an On Sale Brew Pub Malt Liquor license who also holds an Off Sale Brewer Malt Liquor License is permitted to sell malt liquor packaged pursuant to Minn. Stat. §340A.285 in containers with a capacity of up to 64 ounces commonly called "Growlers" or in 750 milliliter bottles for the take-out or off-sale of craft malt liquor. The containers or bottles shall bear a twist-type closure, cork, stopper or plug and at the time of sale must be sealed by a paper or plastic adhesive band strip or sleeve that is applied over the top of the closure of the container or bottle in such a manner that the seal must be broken in order to open the container or bottle. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor. A brewer may, but is not required to refill any such container or bottle with malt liquor for off-sale at the request of the customer. A brewer refilling a container or bottle must do so at its licensed premises and the container or bottle must be filled at the tap at the time of sale and sealed and labeled in the manner described in this paragraph.

D. A Brew Pub's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels annually.

Subd. 9. Off-Sale Brewer Malt Liquor. A brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (c), (d), (I) or (j) and licensed for "on-sale" by the City under Barnesville City Code Section 4-0102 Subdivision 7 or Subdivision 8 may be issued an Off sale Brewer Malt Liquor license by the City for the 'off-sale" of malt liquor produced and packaged by the brewer at the licensed premises, subject to the following conditions:

A. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually.

B. The off-sale of malt liquor may only be made during the days and hours of off-sale at the exclusive liquor store in the City, and all malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at the City exclusive liquor store, except that malt liquor in "Growlers" only may be sold at off-sale on Sundays if authorized by the City in the license with hours established by the City.

C. A brewer may hold only one (1) Off-Sale Brewer Malt Liquor license.

D. The holder of an Off Sale Brewer Malt Liquor License is permitted to sell malt liquor packaged pursuant to Minnesota Rules, parts 7515.1080 to 7515.1120 or packaged pursuant to Minn. Stat. §340A.285 in containers with a capacity of up to 64 ounces commonly called "Growlers" or in 750 milliliter bottles for the take-out or off-sale of craft malt liquor. The containers or bottles shall bear a twist-type closure, cork, stopper or plug and at the time of sale must be sealed by a paper or plastic adhesive band strip or sleeve that is applied over the top of the closure of the container or bottle in such a manner that the seal must be broken in order to open the container

or bottle. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor. A brewer may, but is not required to refill any such container or bottle with malt liquor for off-sale at the request of the customer. A brewer refilling a container or bottle must do so at its licensed premises and the container or bottle must be filled at the tap at the time of sale and sealed and labeled in the manner described in this paragraph.

E. An off sale Brewer Malt Liquor license may not be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews or produces more than 150,000 barrels of its own brands of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

F. The City shall impose a licensing fee for an Off Sale Brewer Malt Liquor license subject to the limitations applicable to off sale license fees under Minn. Stat. §340A.408, Subd. 3 (a).

Subd. 10. Micro-distillery Cocktail Room License. The city may issue an On Sale Micro Distillery Cocktail Room license to a micro distiller licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (a) for the 'on-sale" of liquor produced on the licensed premises for consumption on the premises of or adjacent to one distillery location owned by the brewer, subject to the following conditions:

A. The on-sale of liquor may only be made during the days and hours that on-sale of liquor may be made, as prescribed by State law and this chapter. Notwithstanding the provisions of Min. Stat. §340A.504 Subd. 3, a cocktail room may be open and may conduct on-sale business on Sundays if authorized by the City in the license.

B. A micro-distiller may hold only one (1) On-Sale Cocktail Room license.

Nothing in this subdivision requires, precludes or prohibits the holder of an On-Sale Micro Distillery Cocktail Room license from also holding a license to operate a restaurant on the premises of the distillery. The City shall, within ten (10) days of the issuance of an On-Sale Micro Distillery Cocktail Room license, inform the commissioner of the licensee's name, address and trade name and the effective date and expiration date of the license. The City shall also inform the commissioner of a license transfer, cancellation, suspension or revocation during the license period.

Subd. 11. Special License, Sports, Conventions and Community Festivals. Any holder of an on-sale intoxicating liquor license issued by the City or by an adjacent municipality may apply to the council for a Special License to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the City and located within the City or at a Community Festival held within the City of Barnesville. Applicants for such special license must make application for each such convention, banquet, conference, meeting, social affair or community festival on forms to be prepared

and furnished by the city administrator. The licensee must be engaged to dispense intoxicating liquor at such an event held by a person or organization permitted to use the premises and may dispense intoxicating liquor only to the persons attending the event. The licensee shall not dispense intoxicating liquor to any person attending or participating in any amateur athletic event held on the premises. The dispensing of intoxicating liquor shall be subject to all laws and ordinances governing the dispensing of intoxicating liquor as are not inconsistent herewith. The council may adopt additional uniform terms and conditions for such special licenses and such terms and conditions may include limitations upon the areas within such facility where intoxicating liquor may be dispensed.

SEC. 4-0103. BEER LICENSE.

Subd. 1. Beer Defined. "Beer" or "3.2 malt liquor" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Subd. 2. License Required.

A. Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of three kinds: regular on-sale, temporary on-sale, and off-sale.

B. Regular On-Sale. Regular on-sale licenses shall be granted only to drug stores, restaurants, hotels and bowling centers. On-sale licenses shall permit the sale of beer for consumption on the premises only. The holder of an on-sale wine license issued pursuant to this Chapter who is also licensed to sell beer at on-sale, and whose gross receipts are at least 60% attributable to the sale of food, is authorized to sell intoxicating malt liquor at on-sale without an additional license.

C. Temporary On-Sale. Temporary on-sale licenses may be granted to a club or charitable, religious, or nonprofit organization and shall permit the sale of 3.2 malt liquor or beer for consumption on the premises or in public spaces such as schools and school buildings. Temporary licenses are subject to the terms and conditions set by the City Council.

D. Off-Sale. Off-sale licenses shall permit the sale of beer at retail, in the original package, for consumption off the premises only. Off-sale licenses shall be granted only to persons who have been issued regular on-sale licenses, and to retail food stores having as the principal business the dispensing of groceries and meat products.

SEC. 4-0104. APPLICATION.

Subd. 1. Form. Every application for a license to sell liquor or beer shall state the name of the applicant, his age, representations as to his character, with such representations as to his character, with such references as the council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, a description of that portion of the premises to be licensed and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the city administrator. No person shall make a false statement in an application. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work 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 for violation of this Chapter, or any part thereof.

Subd. 2. Financial Responsibility. Applicants for licenses shall comply with M.S. 340A.409, Subd. 1, prior to issuance of a license. In addition, no license to operate a business shall be issued by the City until the applicant presents his employer's tax identification number and acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Subd. 3. Corporate Applicants and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Administrator in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer 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 shares in a corporate licensee or any change of ownership of any interest in the business of any other 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.

Subd. 4. Renewal license applications. Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

SEC. 4-0105. LICENSE FEES. Except as otherwise specifically provided, all fees for licenses provided for in this Chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by consolidated ordinance pursuant to Title I, Chapter 1-09, Section 1-0903 of this Code and uniformly enforced. Such fees may, from time to time, be amended by the Council. Provided, however, that before any such license fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. A copy of the consolidated ordinance shall be kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the ordinance authorized by this Section.

Subd. 1. Payment. Each application for a license shall be accompanied by payment in full of the license fee and the investigation fee required under Section 4-0106, Subd. 1 of this Code, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the license fee shall be refunded.

Subd. 2. Term. Each license shall be issued for a period of no more than one calendar year. If an application is made during a license year, after the first day of a calendar year, the license, if issued, shall be issued for the remainder of the calendar year, with any unexpired fraction of a month being counted from the first day of that month, as one full month. Every license shall expire on the last day of December.

Subd. 3. Prorated Fee. If an application made during a license year, after the first day of a calendar year, is the initial application by the applicant for a license at that premises, the fee for the license, if issued, shall be prorated by the number of months remaining in the calendar year from the first day of the month in which the license could be issued to the last day of December in that calendar year. Investigation fees shall not be prorated.

Subd. 4. Refunds. Investigation fees shall not be refunded. If a license is issued, the license fee shall not be refunded.

SEC. 4-0106. GRANTING OF LICENSES.

Subd. 1. Preliminary Investigation. On an initial application for an on-sale license liquor license, on application for transfer of an existing on-sale license and on application for a beer license, 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 application 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 apprehension 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. The applicant shall be charged the cost of investigation not to exceed \$10,000 if investigation outside the state is required or \$500 otherwise. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The council liquor control committee shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1, including a consideration of the building with regard to building and zoning ordinances and proximity to schools and churches. A public hearing shall be held by the Council after notice by at least one publication in the official newspaper at least ten (10) days prior to such hearing. Opportunity shall be given any person to be heard for or against granting the license. After investigation and hearing the Council may, in its discretion, grant or refuse such license. A public hearing may be held, but is not required, on renewal liquor licenses, beer licenses and other licenses under this Chapter.

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 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 a ground for revocation of the license.

Subd. 4. Resident Manager or Agent. Before a license is issued under this Chapter to an individual who is a non-resident of the City, to more than one individual whether or not they are residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the City as its manager or agent. Such resident manager or agent shall, by the terms of his/her written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the City or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

Subd. 5. Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

Subd. 6. Places Ineligible for License.

A. **General Prohibition.** No license shall be issued for any place or any business ineligible for such a license under state law. No license shall be issued for any premises where a licensee has been convicted of violation of any law or ordinance regulating the sale of liquor, or where any license has been revoked for cause until six months have elapsed after such conviction or revocation.

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

C. Schools and Churches. No liquor license shall be granted within 100 feet of any school or 100 feet of any church.

Subd. 7. Conditions of License. Every license is subject to the conditions in the following subdivisions and all other provisions of this chapter and of any other applicable ordinance, state law or regulation.

A. Insurance. Compliance with financial responsibility requirements of M.S. 340A.409, Subd. 1, and with this chapter, including compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes is a continuing condition of any license granted pursuant to this chapter.

B. Licensee's Responsibility. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

C. 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.

D. Federal Stamps. No licensee shall possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

E. Costs and Attorney Fees. This issuance of any license may be conditions upon the agreement by the applicant to pay the City's reasonable costs, disbursements and attorney fees incurred by the City in enforcing the provisions of the license or any violation of the license.

F. 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. No sale of beer shall be made on any Sunday between the hours of 1:00 am and 10:00 am.

Subd. 8. Suspension and Revocation.

A. General. For any license granted under the provisions of this Chapter, the Council may either suspend for up to 60 days or revoke any liquor license, impose a civil fine not to exceed \$2,000, or any combination of these sanctions, 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 before the Council, a committee of the Council or a hearing pursuant to the Minnesota Administrative Procedures Act, as may be determined by the Council. 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 M.S. 340A.409, Subd. 1, and this chapter have again been met.

B. License Forfeiture. The license of any licensee who ceases to operate for more than 60 days except due to a revocation or suspension of license or because of destruction or damage to the premises, or death of the licensee, shall terminate and the license, together with all fees, shall revert to the City.

Subd. 9. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Administrator without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by consolidated ordinance of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE."

Subd. 10. Posting. All licensees shall conspicuously post their licenses in their places of business.

SEC. 4-0107. UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Subd. 2. Closing. It is unlawful for any person, other than a licensee or his/her bona fide employee actually engaged in the performance of his/her duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

Subd. 3. Illegal sales. It is unlawful for any person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.

Subd. 4. Intoxication. It is unlawful for any licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

Subd. 5. Proof of age. It is unlawful for any licensee to fail, where doubt could exist,

to require adequate proof of age of a person upon licensed premises.

Subd. 6. After hours. It is unlawful for any Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law. It is unlawful for any Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law. It is unlawful for any person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

SEC. 4-0108. MINORS - UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any:

- A. Licensee to permit any minor to consume alcoholic beverages on or at a licensed premises.
- B. Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.

Subd. 2. Purchasing. It is unlawful for any:

- A. Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.
- B. Minor to purchase or attempt to purchase any alcoholic beverage.
- C. Person to induce a minor to purchase or procure any alcoholic beverage.

Subd. 3. Possession. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

Subd. 4. Entering Licensed Premises. It is unlawful for any minor, as defined in this Chapter, to enter liquor licensed premises or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of eighteen years to enter a liquor licensed premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of eighteen years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or for a meal in a designated area.

Subd. 5. Misrepresentation of Age. It is unlawful for a minor to misrepresent his/her age for the purpose of purchasing an alcoholic beverage.

Subd. 6. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid passport issued by the United States of America; or by a valid military identification

card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.

SEC. 4-0109. GAMBLING PROHIBITED. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

SEC. 4-0110. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS. It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. An application for permission to consume or possess alcoholic beverages on any (1) City park, (2) street, (3) public property, or (4) private parking lot shall be made to the Barnesville Police Department. The Barnesville Police Department shall make recommendations regarding the application and submit said recommendation to the City Council prior to the City Council voting on such application. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. Provided, further, that this Section shall not apply to a bus operated under a charter, or to a limousine, both as defined by statute.

SEC. 4-0111. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS. It is unlawful for any person to introduce upon, or have in his/her possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and except for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.

SEC. 4-0112. MUNICIPAL DISPENSARY.

Subd. 1. Establishment. A Municipal Dispensary is hereby established to be operated within the City for the sale of alcoholic beverages. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager, shall hold their positions at the pleasure of the Council.

Subd. 2. Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid, and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council, and expended for any municipal purpose.

SEC. 4-0113. NUDITY OR OBSCENITY PROHIBITED.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. **"Nudity"** means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

B. **"Obscene performance"** means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

C. **"Obscenities"** means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

D. **"Sado-masochistic abuse"** means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

E. **"Sexual conduct"** means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

F. **"Sexual excitement"** means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. Unlawful Act. It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

SEC. 4-0114. PENALTY. In addition to other remedies provided in this Chapter, any person violating any provision of this Chapter 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 affirmative vote of five of the six (6) Ward Representatives of the City Council, constituting a majority of the Ward Representatives of the Barnesville City Council this 13th day of March, 2023.

APPROVED:

Jason Rick, Mayor

ATTEST:

Jeri Reep, City Clerk

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

