

FULDA, MINNESOTA CODE OF ORDINANCES

2025 S-14 Supplement contains:
Local legislation passed through April 29, 2025
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ADOPTING ORDINANCE

ORDINANCE NO. 197

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF FULDA, COUNTY OF MURRAY, STATE OF MINNESOTA, AMENDING, RESTATING, REVISING, UPDATING, CODIFYING AND COMPILING CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CODE OF ORDINANCES, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CODE OF ORDINANCES.

WHEREAS, M.S. §§ 415.02 and 415.021 authorize the city to cause its ordinances to be codified and printed in a book,

NOW, THEREFORE, the City Council of the City of Fulda, Minnesota, ordains:
Section 1. The general ordinances of the city as amended, restated, revised, updated, codified and compiled in the book form, including penalties for the violations of various provisions thereof, are hereby adopted and shall constitute the "Code of Ordinances of the City of Fulda." This Code of Ordinances also adopts by reference certain statutes and administrative rules of the State of Minnesota as named in the Code of Ordinances.

Section 2. The Code of Ordinances as adopted in Section 1 shall consist of the following titles:

GENERAL PROVISIONS, ADMINISTRATION, PUBLIC WORKS, TRAFFIC CODE, GENERAL REGULATIONS, BUSINESS REGULATIONS, GENERAL OFFENSES, LAND USAGE, TABLE OF SPECIAL ORDINANCES, PARALLEL REFERENCES, AND INDEX.

Section 3. All prior ordinances, pertaining to the subjects treated in the Code of Ordinances, shall be deemed repealed from and after the effective date of this

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ordinance, except as they are included and re-ordained in whole or in part in the Code of Ordinances; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code of Ordinances. All fees established in prior ordinances codified in this code shall remain in effect unless amended in this code or until an ordinance adopting a fee schedule is adopted or amended.

Section 4. This ordinance adopting the Code of Ordinances shall be a sufficient publication of any ordinance included in it and not previously published in the city's official newspaper. The Clerk of the city shall cause a substantial quantity of the Code of Ordinances to be printed for general distribution to the public at actual cost and shall furnish a copy of the Code of Ordinances to the city public library or its designated depository. The official copy of the Code of Ordinances shall be marked and kept in the office of the City Clerk.

Section 5. The Code of Ordinances is declared to be prima facie evidence of the law of the city and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota.

Section 6. This ordinance adopting the Code of Ordinances, and the Code of Ordinances itself, shall take effect upon publication of this ordinance in the city's official newspaper.

PASSED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA
THIS 6TH DAY OF NOVEMBER, 2006.

Approved:

John G.
Maertens
/s/

John G.
Maertens,
Mayor

Attest:

Michelle Baumhoefner /s/
Michelle Baumhoefner, City Clerk-Treasurer

ORDINANCE NO. 203

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AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the initial codification and printing of the Code of Ordinances of the City of Fulda; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Minnesota State Code; and changes of the law of the State of Minnesota; and

WHEREAS, it is the intent of the City Council to accept these updated sections in accordance with the changes of the law of the State of Minnesota;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the first supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Passed and adopted by the City Council of the City of Fulda this 5th day of November, 2007.

Mary Magnus /s/

Mary Magnus, Mayor

Attest:

Michelle Baumhoefner /s/

Michelle Baumhoefner, City Clerk-Treasurer

ORDINANCE NO. 208

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the initial codification and printing of the Code of Ordinances of the City of Fulda; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Minnesota State Code; and changes of the law of the State of Minnesota; and

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WHEREAS, it is the intent of the City Council to accept these updated sections in accordance with the changes of the law of the State of Minnesota;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the second supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Passed and adopted by the City Council of the City of Fulda this 6th day of April, 2009.

Mary Magnus /s/

Mary Magnus, Mayor

Attest:

Michelle Baumhoefner /s/

Michelle Baumhoefner, City Clerk-Treasurer

ORDINANCE NO. 212

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the third supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the initial codification and printing of the Code of Ordinances of the City of Fulda; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Minnesota State Code; and changes of the law of the State of Minnesota; and

WHEREAS, it is the intent of the City Council to accept these updated sections in accordance with the changes of the law of the State of Minnesota;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the third supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is

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hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Passed and adopted by the City Council of the City of Fulda this 5th day of April, 2010.

Mary Magnus /s/

Mary Magnus, Mayor

Attest:

Michelle Baumhoefner /s/

Michelle Baumhoefner, City Clerk-Treasurer

ORDINANCE NO. 214

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA, AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the fourth supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Fulda; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the fourth supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Passed and adopted by the City Council of the City of Fulda this 7th day of February, 2011.

Greg Ommen /s/

Greg Ommen, Mayor

Attest:

Michelle Baumhoefner /s/

Michelle Baumhoefner, City Clerk-Treasurer

ORDINANCE No. 222

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the sixth supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Fulda; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the sixth supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Passed and adopted by the City Council of the City of Fulda this 3rd day of November, 2014.

Greg Ommen /s/
Greg Ommen, Mayor

Attest:

Julie Burchill /s/

Julie Burchill, City Clerk-Treas.

ORDINANCE No. 226

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the seventh supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Fulda; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the seventh supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Passed and adopted by the City Council of the City of Fulda this 6th day of June, 2016.

Chad Ouellete /s/
Mayor

Attest:

Julie Burchill /s/
City Clerk-Treas.

ORDINANCE No. 229

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the eighth supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Fulda; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

Section 1. That the eighth supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Passed and adopted by the City Council of the City of Fulda this 6th day of March, 2017.

John Maertens /s/
John Maertens,

Mayor

Attest:

Julie Burchill /s/
Julie Burchill, City Clerk-Treas.

Ordinance No. 231

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF FULDA, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the eighth supplement to the Code of Ordinances of the City of Fulda, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Fulda; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULDA, MINNESOTA:

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Section 1. That the ninth supplement to the Code of Ordinances of the City of Fulda as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council, and the Clerk of the City of Fulda is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Passed and adopted by the City Council of the City of Fulda this 5th day of March, 2018.

John Maertens /s/
John Maertens,

Mayor

Attest:

Julie Burchill /s/

Julie Burchill, City Clerk-Treas.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

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§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “city code,” for which designation “code of ordinances,” “codified ordinances,” or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) **AND or OR.** Either conjunction shall include the other as if written “and/or,” whenever the context requires.

(2) *Acts by assistants.* When a statute, code provision, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The area within the corporate boundaries of the City of Fulda as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Murray County.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in 1 section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

The official copy of this code shall be kept in the office of the City Clerk-Treasurer for public inspection. The Clerk-Treasurer shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.

It is the intention of the City Council that, when adopting this code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk-Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk-Treasurer or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Clerk-Treasurer and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk-Treasurer, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk-Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk-Treasurer to object to the termination before it occurs, subject to appeal of the Clerk-Treasurer's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

§ 10.98 ADMINISTRATIVE OFFENSES.

(A) *Purpose.* Administrative offense procedures established pursuant to this section are intended to provide the public and the City of Fulda with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain city code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At anytime prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with law. Likewise, the City of Fulda in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty which may be imposed, the City of Fulda will seek to

collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(B) *Administrative offense defined.* An **ADMINISTRATIVE OFFENSE** is a violation of a provision of the city ordinances and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in division (H), hereafter.

(C) *Notice.* Any officer of the City of Fulda Police Department or any other person employed by the city, authorized in writing by the City Administrator/Clerk, and having authority to enforce this section, shall upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

(D) *Payment.* Once such notice is given, the alleged violator may, within 7 days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(E) *Court appearance request.* Any person contesting an administrative offense pursuant to this section may, within 7 days of the time of the issuance of the notice, request a court appearance. A person requesting a court appearance will be issued a citation/summons for the violation and a court date will be set. The administrative offense will then be dismissed.

(F) *Failure to pay.* In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge will be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid, no such charge may be brought by the City of Fulda for the same violation.

(G) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the City of Fulda and deposited in the City's General Fund.

(H) *Offenses and penalties.* Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the Office of the City Administrator/Clerk.

(I) *Supplemental administrative penalties.* At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request a hearing before a neutral third party appointed by the city to hear and rule on challenges to the administrative citations. Such request for a hearing must be made in writing and received at the office of the City Clerk-Treasurer prior to the date that payment of the administrative penalty is due. A deposit of \$50 shall accompany the request for a hearing and shall be applied toward the cost of scheduling and conducting such hearing. A hearing will then be scheduled within 30 days of such written request with written notice of the date and time of hearing to be mailed to the address provided by the person requesting a hearing, at least five days prior to the

hearing date. After such hearing, the neutral third party may determine that the request for payment be withdrawn or determine that the request for payment is valid. Because the payment of the administrative penalty is voluntary and the alleged violator has the right to request that criminal charges be filed in accordance with state law, there shall be no appeal from the decision of the neutral third party.

(Ord. 196, passed 1-3-2006; Am. Ord. 211, passed 2-8-2010)

Cross-reference:

Notice of Code Violation, see Appendix B

Resolution to Adopt a Schedule of Offenses and Voluntary Administrative Penalties, see Appendix A

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

(E) In addition to any penalties provided for in this section or in § 10.98, if any person, firm, or corporation fails to comply with any provision of this code, the Council or any city official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

APPENDIX A: RESOLUTION TO ADOPT A SCHEDULE OF OFFENSES AND VOLUNTARY ADMINISTRATIVE PENALTIES

WHEREAS, the City Council wishes to adopt the provisions of Fulda City Code § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

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WHEREAS, the provisions of Fulda City Code § 10.98 authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of Fulda City Code § 10.98 and adopts the following administrative penalties:

Offense	Code Section	Amount of
Administrative Penalty		All offenses for which an
		\$75

administrative penalty may be established under this code, other than those specified below:

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of Fulda City Code § 10.98.

Mayor: _____

Attest: _____

City Clerk-Treasurer

APPENDIX B: NOTICE OF CODE VIOLATION

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of Section of the Fulda City Code, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § _____ of the Fulda City Code relating to _____

The City Council has by resolution established an administrative penalty in the amount of \$_____ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by _____ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Payment of the administrative penalty may be made by check, cash, or money order to the City Clerk-Treasurer.

Signed: _____
(Name and title of person giving notice)

TITLE III: ADMINISTRATION

Chapter

- 30. GENERAL PROVISIONS**
- 31. CITY ORGANIZATIONS**
- 32. FINANCE AND REVENUE**

CHAPTER 30: GENERAL PROVISIONS

Section

- 30.01 Ambulance service
- 30.02 Clerk-Treasurer position
- 30.03 Annual city elections

§ 30.01 AMBULANCE SERVICE.

(A) This section is for the purpose of providing adequate transportation for the sick and injured and promoting the public health, safety, comfort, and welfare of the citizens of the Fulda area.

(B) There is hereby established an ambulance service for the City of Fulda to provide adequate provisions for the transportation of the sick and injured to and from hospitals, asylums, medical centers, or institutions where proper treatment and assistance may be administered.

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(C) The ambulance service shall be directed and supervised by the Board of Directors of the Fulda Area Ambulance Association subject to the approval of the City Council, whose duty it shall be to keep all ambulance equipment in order, to establish rules and regulation for the use and operation of the same and that the rules and regulations are duly executed, and otherwise do perform with the assistance of the additional personnel as necessary to accomplish the objects and aims of this section. As the ambulance service is a subsidized function of the City of Fulda, including all maintenance cost, operational cost, and personnel payroll, the Board of Directors of the Fulda Area Ambulance Association and the City Council shall establish a schedule of charges for the use and operation of the ambulance service. The compensation of the ambulance drivers, attendants, and dispatchers, and mode of payment shall also be set by and agreed upon by the Board of Directors of the Ambulance Association and the City Council.

(Am. Ord. 152, passed 1-7-1991)

(D) There is hereby established, and the City Clerk-Treasurer shall maintain, a fund to be known as the Ambulance Fund, a record of which shall be kept by the Board of Directors of the Fulda Area Ambulance Association into which shall be paid all monies received from the use of the ambulance service, and from which all disbursements shall be paid, subject to the approval of the City Council. All monies which have been received from the operation of the ambulance service and not disbursed shall be transferred into the Ambulance Fund immediately upon adoption of this section.

(E) This section is an emergency ordinance in the immediate interest of the health, safety, and welfare of the people of the Fulda area and shall be in force and effect from and after its passage, approval, and publication.

(Ord. 121, passed 12-1-1980)

§ 30.02 CLERK-TREASURER POSITION.

(A) Upon the expiration date of the present terms of the Clerk and Treasurer, the Offices of Clerk and Treasurer shall be combined and the duties shall be performed by a person appointed by the Council, who shall be appointed for an indefinite term as provided by law.

(B) This section shall be effective from and after the first business day January, 1971.

(Ord. 96, passed 10-5-1970)

§ 30.03 ANNUAL CITY ELECTIONS.

(A) The annual city election shall be held in the City of Fulda, Minnesota, on the first Tuesday after the first Monday in November, commencing in the year 1968, according to the provisions of M.S. § 205.07, as it may be amended from time to time.

(B) This section shall take effect upon its passage and publication as provided by law.
(Ord. 93, passed 7-1-1968)

CHAPTER 31: CITY ORGANIZATIONS

Section

Heritage Preservation Commission

- 31.01 Policy and purpose
- 31.02 Definition
- 31.03 Establishment
- 31.04 Designation of Heritage Preservation Sites
- 31.05 Additional powers and duties of the Commission
- 31.06 Review of permits

Star City Commission

- 31.20 Short title
- 31.21 Definitions
- 31.22 Establishment
- 31.23 Terms of office
- 31.24 Qualifications
- 31.25 Removal of members
- 31.26 Meetings; officers
- 31.27 Commission staff
- 31.28 Rules and procedure
- 31.29 Absences of members
- 31.30 Powers and duties
- 31.31 Annual report
- 31.32 Effective date

Public Safety Advisory Commission

- 31.45 Establishment
- 31.46 Composition
- 31.47 Ex officio member
- 31.48 Terms
- 31.49 Vacancies
- 31.50 Legal advisory
- 31.51 Rule
- 31.52 Officers
- 31.53 Minutes
- 31.54 Duties and functions
- 31.55 Compensation
- 31.56 Effective date

Volunteer Fire Department

31.70	Establishment
31.71	Fire Chief
31.72	Fire apparatus
31.73	Fire records
31.74	Drills
31.75	Assistant Fire Chief
31.76	Age requirement
31.77	Membership forfeiture
31.78	Compensation
31.79	Prohibited conduct
31.80	Effective date

HERITAGE PRESERVATION COMMISSION

§ 31.01 POLICY AND PURPOSE.

(A) The Fulda City Council hereby declares as a matter of public policy that the preservation, protection, perpetuation, and use of areas, places, buildings, structures, and other objects having special historical interest or value is a public necessity, and is required in the interest of the health, safety, welfare, and prosperity of the people.

(B) The purpose of this subchapter is to:

(1) Safeguard the heritage of the City of Fulda by preserving sites and structures which reflect elements of the city's cultural, social, economic, political, visual, or architectural history;

(2) Protect and enhance the City of Fulda's appeal to residents, visitors, and tourists, and serve as a support and stimulus to business and industry;

(3) Foster civic pride in the beauty and notable accomplishments of the past; and

(4) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the people of the City of Fulda.

(Ord. 136, passed 9-8-1987)

§ 31.02 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

HERITAGE PRESERVATION SITE. Any area, place, building, structure, lands, districts, or other objects which have been duly designated Heritage Preservation Sites pursuant to this subchapter.

(Ord. 136, passed 9-8-1987)

§ 31.03 ESTABLISHMENT.

(A) *Members.* There is hereby created and established a City of Fulda Heritage Preservation Commission, hereinafter the Commission, which shall consist of 5 voting members, 3 of whom shall be appointed by the Mayor, with the advice and consent of the City Council. The Chairperson of the Planning and Zoning Board, or his or her designate, and the President of the Fulda Historical Society, or a designate, shall serve as 2 of the 5 voting members of the Heritage Preservation Commission.

(B) *Terms of office.* The Mayor and City Council shall initially designate on appointee to serve a 1-year term, 1 appointee to serve a 2-year term, and 1 appointee to serve a 3-year term. Thereafter, all appointments shall be made for a term of 3 years. Members shall be reappointed for consecutive terms. Members shall serve without compensation and continue to hold office until their successors have been appointed and qualified.

(C) *Organization.* The Commission when formed shall elect from its members the officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make the bylaws as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this subchapter, which are not inconsistent with the laws of the City of Fulda and the State of Minnesota. The Commission shall make an annual report, containing a statement of its activities and plans to the City Council.

(D) *Program assistance.* To accomplish the intent and purpose of this subchapter, the City of Fulda shall provide the commission with staff support, including employees of the library staff acquainted with the historical archives and files, to perform the duties prescribed under this subchapter.

(Ord. 136, passed 9-8-1987)

§ 31.04 DESIGNATION OF HERITAGE PRESERVATION SITES.

(A) *Reports.* The Council, upon request of the Heritage Preservation Commission, may direct the city staff to prepare studies which catalog buildings, land, areas, districts, or other objects to be considered for designation as a Heritage Preservation Site.

(B) *Criteria.* The Commission shall recommend to the City Council areas, buildings, districts, or objects to be designated Heritage Preservation Sites. In considering the designation of Heritage Preservation Sites, the Commission shall apply the following criteria:

(1) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Fulda, State of Minnesota, or the United States;

(2) Its location as a site, or contributing element in proximity to a site of a significant historic event or process;

(3) Its embodiment of distinguishing characteristics of an architectural style, period, form, or treatment;

(4) Its identification with a person or persons who significantly contributed to the culture and development of the City of Fulda;

(5) Its embodiment of elements of architectural design, detail, materials, or craftsmanship which represent distinctive architectural innovation; and

(6) Its unique location or singular physical characteristics representing established and familiar aspects of a view, vista, site, area, or district in the City of Fulda.

(C) *Communication.* The Heritage Preservation Commission shall establish and maintain communication with the City Planning and Zoning Board.

(D) *Findings and recommendations.* The Heritage Preservation Commission shall determine if the proposed Heritage Preservation Site is eligible for preservation as determined by the criteria specified in division (B) above.

(E) *Council designation; hearings.* The City Council, upon the request of the Heritage Preservation Commission, may by resolution designate a Heritage Preservation Site. Prior to the designation, the City Council shall hold a public hearing, notices of which shall have been published in the official newspaper at least 10 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of property which is proposed to be designated a Heritage Preservation Site and to all property owners abutting the boundary of the area to be designated a Heritage Preservation Site.

(F) *Communication with State Historical Society.* A copy of the Heritage Preservation Commission's designation of a Heritage Preservation Site, including boundaries, and a program for the preservation, restoration, or rehabilitation of the site as approved by City Council shall be sent to the State Historical Society in accordance with M.S. § 471.193, Subd. 5, as it may be amended from time to time.

(G) *Acquisition.* The Heritage Preservation Commission may recommend to the City Council, after review and comment by the City Planning and Zoning Board, that certain property eligible for designation as a Heritage Preservation Site be acquired by gift, by negotiation, or other legal means as provided in M.S. Ch. 117, as it may be amended from time to time.

(Ord. 136, passed 9-8-1987)

§ 31.05 ADDITIONAL POWERS AND DUTIES OF THE COMMISSION.

(A) *Generally.* The Commission shall have the following powers and duties in addition to those otherwise previously listed.

(B) *Specifically.*

(1) The Commission shall conduct a continuing survey of all areas, places, buildings, structures, or objects in the City of Fulda which the

Commission, on the basis of information available or presented to it, has reason to believe are significant to the cultural, social, economic, political, or architectural history of Fulda.

(2) The Commission shall continually survey all areas to determine needed and desirable improvements of older buildings throughout Fulda, acting in a resource and advisory capacity to owners of Historical Significant Sites regarding their preservation, restoration, and rehabilitation.

(3) The Commission shall work for the continuing education of the citizens of the City of Fulda with respect to the civic and architectural heritage of the city. It shall keep current and public a register of designated and proposed Heritage Preservation Sites and areas along with the plans and programs that pertain to them.

(4) The Commission may recommend to the city the acceptance of gifts and contributions to be made to the city and to assist the city staff in the preparation of application for grant funds to be made through the city for the purpose of heritage preservation. Any contribution or gifts will be expended in the manner provided through the fiscal policy of the City of Fulda.

(5) The Commission shall on a continuing basis collect and review all city planning and development records, documents, studies, models, maps, plans, and drawings to be entered into the Public Library Historical Archives as a permanent record of city history and development.

(Ord. 136, passed 9-8-1987)

§ 31.06 REVIEW OF PERMITS.

(A) *Generally.* The City Council shall review and act upon every application for a building permit prior to issuance in relation to property in Fulda designated to be a Heritage Preservation Site. The application shall be accompanied by detailed plans for the proposed work to be done. The building officials shall immediately refer the plans to the Heritage Preservation Commission for their recommendations.

(B) *Type of building activity to be reviewed.*

(1) Remodeling or repair in any manner, including paint color, that will change the exterior appearance of the building or site;

(2) Construction;

(3) Signs;

(4) Moving of buildings; and

(5) Demolition in whole or part.

(C) *City activity.* The Heritage Preservation Commission shall review and make recommendations concerning all city activity to change the nature or appearance of a Heritage Preservation Site.

(D) *Preservation program.* All decisions of the Heritage Preservation Commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each Heritage Preservation Site. The following

general precepts indicate the nature and scope of authentic preservation, and the degree of quality sought in planning as well as in building craftsmanship.

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Contemporary design for alterations and additions to existing properties shall not be discouraged when the alteration and additions do not destroy significant historical, architectural, or cultural material, and the design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(9) Wherever possible, new additions or alterations to structures shall be done in such a manner that if the additions or alteration were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(Ord. 136, passed 9-8-1987)

STAR CITY COMMISSION

§ 31.20 SHORT TITLE.

This subchapter shall be known and may be cited as the Fulda Star City Commission Ordinance.

(Ord. 135, passed 3-2-1987)

§ 31.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHAIRPERSON. The Chairperson of the Star City Commission as provided hereunder.

COMMISSION. The Star City Commission of the city as created by this subchapter.

SECRETARY. The Secretary of the Star City Commission as provided hereunder.

VICE-CHAIRPERSON. The Vice-Chairperson of the Star City Commission as provided hereunder.

ZONING COMMISSION. The City Zoning Commission of the City of Fulda.

(Ord. 135, passed 3-2-1987)

§ 31.22 ESTABLISHMENT.

A Star City Commission is hereby established to be advisory to the Council and shall have the powers and duties hereinafter set forth.

(Ord. 135, passed 3-2-1987)

§ 31.23 TERMS OF OFFICE.

Of the members of the Commission first appointed, 3 shall be appointed for terms expiring in January of 1988, and 2 shall be appointed for terms expiring in January of 1989. Upon expiration of the initial terms, future appointees shall serve 3-year terms expiring in January of the appropriate year provided, however, that members shall continue their terms until new appointments or reappointments are made by the City Council. The City Council shall make appointments to the Commission at its second official meeting in January of each year or as soon thereafter as it desires. Vacancies during the term shall be filled by the City Council for the unexpired portion of the term.

(Ord. 135, passed 3-2-1987)

§ 31.24 QUALIFICATIONS.

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The Commission shall consist of the following:

- (A) One City Councilmember;
 - (B) One Fulda Area Development Corporation member;
 - (C) Five members of the community, representing, but not limited to, the Fulda Area Community Club, Fulda Business Association, Fulda School Board, Fulda Clergy Association, and the general public; and
 - (D) The Community Economic Director, a representative of Interstate Power Company, a County Commissioner, the Director of the State of Minnesota Job Service Office, and the Director of the Job Training Center shall serve as ex officio members of the Commission.
- (Ord. 135, passed 3-2-1987)

§ 31.25 REMOVAL OF MEMBERS.

The Council by a 2/3 vote of its members shall have the authority to remove any member of the Commission for office whenever, in its discretion, the best interests of the city shall be served thereby.

(Ord. 135, passed 3-2-1987)

§ 31.26 MEETINGS; OFFICERS.

(A) *Generally.* The Commission will name its own officers to serve at its pleasure from the membership of the Commission.

(B) *Regular meetings.* The Commission shall meet publicly in regular session at least once each month at a time and place selected at least once each month at a time and place selected by a majority of its members.

(C) *Special meetings.* The Chairperson or any 3 members of the Commission shall have the authority to call a special meeting of the Commission. Written notice of special meetings shall be given to all members at least 24 hours prior to the time of the meeting unless the time and place for the special meetings are set at a regular meeting.

(Ord. 135, passed 3-2-1987)

§ 31.27 COMMISSION STAFF.

The Commission shall receive the staff services of the City of Fulda provided by the City Council within the means provided by a appropriation made therefore by the City Council.

(Ord. 135, passed 3-2-1987)

§ 31.28 RULES AND PROCEDURE.

The Commission shall adopt a set of rules to govern its own meetings and procedures. The rules may be amended from time to time, but only upon notice to all members that the proposed amendments shall be acted upon at a specified meeting. A majority vote of the Commission shall be required for the approval of the proposed amendments.
(Ord. 135, passed 3-2-1987)

§ 31.29 ABSENCES OF MEMBERS.

Absences from 3 consecutive regular meetings without the formal consent of the Commission shall be deemed to constitute a resignation of a member; and the vacancy thus created shall be filled thereafter by appointment of the City Council for the remainder of the term of the member so deemed to have resigned.
(Ord. 135, passed 3-2-1987)

§ 31.30 POWERS AND DUTIES.

The Commission shall have the following powers and duties with the consent of the City Council:

- (A) To confer with and advise the Council and Zoning Commission on all matters concerning the industrial and commercial development of the city;
- (B) To publicize the industrial and commercial advantage and opportunities of the city;
- (C) To collect data and information as to the type of industries and commerce best suited to the city;
- (D) To periodically survey the overall conditions of the city from the stand point of determining whether the city has a community climate for industry and to determine the general receptiveness of the city of particular type of industry;
- (E) To publicize information as to the general advantages of industrial and commercial development in a community;
- (F) To cooperate with all industry and business in the city and in the solution of any community problems which they may have, and to encourage the expansion, development, and management of the industries and management of the industries and businesses so as to promote the general welfare of the city;
- (G) To cooperate with the Regional Development Commission in the undertaking of necessary surveys and studies in the furtherance of commercial and industrial development;
- (H) To aid the Council and Zoning Commission in the proper zoning and orderly development of areas suitable for industrial and commercial development;
- (I) To develop, compile, coordinate, and publicize information regarding, but not limited to, the following:

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(1) Existing industrial and commercial concerns with the city, their address, type of business, number of employees, and whether each serves local, regional, or national markets;

(2) Available industrial and commercial sites including number of acres, approximate price, existing zoning, and proximity to trackage and highways;

(3) Available buildings for industrial and commercial operations, including type of building, number of square feet, existing zoning, and proximity to trackage and highways. (Minn. State Dept. Form.);

(4) Transportation facilities, including railroads, motor carriers, water transportation, air transportation, and highway facilities;

(5) Electric power available;

(6) Fuels available for industrial and commercial use;

(7) Sewage disposal facilities;

(8) Water supply facilities;

(9) Community facilities such as fire, police, and education;

(10) Recreational facilities;

(11) Going wage rate in the city for the trades, skilled, and semi-skilled and white collar workers;

(12) Availability of labor;

(13) General community attitude toward industrial and commercial expansion, development, and attraction; and

(14) Experience and program of surrounding suburban communities in regards to industrial and commercial expansion, development, and attraction.

(J) To recommend to the Council and Zoning Commission policies and particular actions in regard to industrial and commercial expansion development and attraction;

(K) To cooperate with and use the facilities of the Minnesota Department of Energy and Economic Development's Star Cities Program;

(L) To cooperate and coordinate with the Fulda Improvement Association, Fulda relators, and local lending institutions in defining available property and assembling financing packages for commercial and industrial prospects; and

(M) The Commission shall have the power to appoint subcommittees of a 6 and nature it may deem necessary and may enlist the aid of persons and/or organizations who are not members of the Commission. The Commission shall have no power to make contracts, levy taxes, borrow money, or condemn property, but shall have the full power and responsibility to investigate the necessity and recommend the taking of these and any other actions related to the industrial and commercial development by the Council and all other officers of the city responsible to formulate the terms of and the procedure for taking the action.

(Ord. 135, passed 3-2-1987)

§ 31.31 ANNUAL REPORT.

The Commission shall make a report to the City Council of its activities in December of each year.

(Ord. 135, passed 3-2-1987)

§ 31.32 EFFECTIVE DATE.

This subchapter shall become effective upon publication.

(Ord. 135, passed 3-2-1987)

PUBLIC SAFETY ADVISORY COMMISSION

§ 31.45 ESTABLISHMENT.

A Public Safety Advisory Commission is hereby established to advise the City Council on police and public safety matters, including the Fire Department and ambulance.

(Ord. 127, passed 4-18-1984)

§ 31.46 COMPOSITION.

The Commission shall consist of 4 general members and 1 ex officio member. The initial 4 general members shall be appointed by the City Council. A vacancy in the general membership shall be filled for the unexpired term by the City Council from a list of names submitted to it by the remaining members of the Commission.

(Ord. 127, passed 4-18-1984)

§ 31.47 EX OFFICIO MEMBER.

The following officers of the City of Fulda shall be the ex officio member of the Commission: 1 member from the Council membership of the City Council who heads the Police Department.

(Ord. 127, passed 4-18-1984)

§ 31.48 TERMS.

Appointment to the Commission shall be made at the first regular January meeting of the City Council or more often if required. General members shall be appointed for 3-year terms beginning 5-1-1984 and ending January 31 of the third year following (and until a successor is appointed and qualified), except that of the general members initially appointed by the City Council. Their terms shall expire 1-31-1987. General members appointed after the initial Commission shall be appointed for a 3-year term.
(Ord. 127, passed 4-18-1984)

§ 31.49 VACANCIES.

In the case of a vacancy during the term of office of any general member of the Commission, the Council shall appoint a new member to serve the remainder of the term from the list of name(s) submitted by the Commission to fill the vacancy. A vacancy shall exist if any 1 of the following occur: death, disability, residence outside of the city, resignation, or removal by a majority vote of the Council.
(Ord. 127, passed 4-18-1984)

§ 31.50 LEGAL ADVISORY.

The City Attorney shall serve as legal counsel to the Commission.
(Ord. 127, passed 4-18-1984)

§ 31.51 RULE.

The Commission may adopt rules and regulation for its own proceedings and shall meet at regular intervals, the time and place to be established by rule adopted from time to time. All meetings of the Commission shall be open to the public with public notice given.
(Ord. 127, passed 4-18-1984)

§ 31.52 OFFICERS.

The Commission shall elect from among its members a Chairperson, Vice-Chairperson, and a Secretary.
(Ord. 127, passed 4-18-1984)

§ 31.53 MINUTES.

Minutes of the Commission meetings shall be kept by the Secretary and copies provided to the City Clerk-Treasurer.
(Ord. 127, passed 4-18-1984)

§ 31.54 DUTIES AND FUNCTIONS.

- (A) The duties and functions of the Commission shall be as follows:
- (1) To assist the City Council in planning and research in the area of public safety matters, including equipment, manpower, inter-governmental cooperation, and public information programs;
 - (2) To develop and implement a plan for departments chain of command, department structures, and clear lines of communication between the Council, the departments, and the citizens of Fulda;
 - (3) To develop and submit to the City Council a code of ethics for public safety personnel;
 - (4) To develop a citizens complaint procedure on matters of public safety;
 - (5) Promote public interest in and an understanding of the public safety departments;
 - (6) To cooperate with all community groups and civic organizations within the city and furnish them the aid and advice in matters of public safety as deemed appropriate within the means provided by appropriations made by the Council;
 - (7) To confer with and advise the Council on all matters concerning public safety within the city; and
 - (8) To take under advisement, study, hold hearings, and make their written recommendations to the City Council on all matters of public safety referred to them or initialed by majority vote of the Commission.
- (B) The Commission shall not have jurisdiction over the employment, promotion, discharge, or suspension of public safety employees.
(Ord. 127, passed 4-18-1984)

§ 31.55 COMPENSATION.

Members of the Commission shall serve without compensation.
(Ord. 127, passed 4-18-1984)

§ 31.56 EFFECTIVE DATE.

This subchapter shall take effect and be in force from and after its passage and publication.
(Ord. 127, passed 4-18-1984)

VOLUNTEER FIRE DEPARTMENT

§ 31.70 ESTABLISHMENT.

There is hereby established in this city a Volunteer Fire Department consisting of a Fire Chief, and a Secretary, and a Treasurer, and not less than 15 or more than 30 firefighters.
(Ord. 66A, passed 8-6-1929)

§ 31.71 FIRE CHIEF.

The Office of the Fire Chief is hereby established. He or she shall be elected annually by the Fire Department and confirmed by the City Council and may not be removed, only for cause and after a public hearing.
(Ord. 66A, passed 8-6-1929)

§ 31.72 FIRE APPARATUS.

The Chief shall have control over all firefighting apparatus and shall be solely responsible for its care and condition. He or she shall make a report, semi-annually to the City Council at its meeting in March and September as to the condition of the equipment and needs of the Fire Department. He or she may submit additional reports and recommendations at any meeting of the Council. He or she shall be responsible for the proper training and discipline of the members for refusal or neglect to obey orders pending final action by the department on his or her discharge or retention.
(Ord. 66A, passed 8-6-1929)

§ 31.73 FIRE RECORDS.

The Chief shall keep in convenient form a complete record of all fires. The records shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the Department responding to the alarm, and any other information as he or she may deem possible or advisable as may be required from time to time by the City Council or State Insurance Department.
(Ord. 66A, passed 8-6-1929)

§ 31.74 DRILLS.

It shall be the duty of the Chief to hold a monthly practice drill of at least 1-hour duration for the Fire Department, when the weather permits, and to give the firefighters instruction in approved methods of firefighting and fire prevention. (Ord. 66A, passed 8-6-1929)

§ 31.75 ASSISTANT FIRE CHIEF.

The Assistant Fire Chief, in absence or disability of the Fire Chief, shall perform all the functions and exercise all the authority of the Chief. (Ord. 66A, passed 8-6-1929)

§ 31.76 AGE REQUIREMENT.

The Assistant Fire Chief and firefighters shall be not less than 21 years of age and able-bodied. (Ord. 66A, passed 8-6-1929)

§ 31.77 MEMBERSHIP FORFEITURE.

Firefighters absent from 3 consecutive drills or calls shall forfeit membership in the Department. (Ord. 66A, passed 8-6-1929)

§ 31.78 COMPENSATION.

The members and officers of the Fire Department shall receive compensation for all fire calls (except practice or drills) as follows: \$1 for the first hour and \$.50 for all additional hours thereafter. (Ord. 66A, passed 8-6-1929)

§ 31.79 PROHIBITED CONDUCT.

It shall be unlawful for any person to give or make or cause to be given or made an alarm of fire without probable cause, or neglect or refuse to obey any reasonable order of the Chief at a fire or to interfere with the Fire Department in the discharge of its duties and any person convicted of violating this section shall be deemed guilty of a misdemeanor, and in default of payment of fine or costs or both he or she shall be committed to the city (county) jail until the fine and costs are satisfied as provided by law. (Ord. 66A, passed 8-6-1929) Penalty, see § 10.99

§ 31.80 EFFECTIVE DATE.

This subchapter shall take effect and be in force from and after its passage and publication according to law.
(Ord. 66A, passed 8-6-1929)

CHAPTER 32: FINANCE AND REVENUE

Section

Master Fee Schedule

- 32.01 Recovery of debts incurred in connection with Master Fee Schedule
- 32.02 Master Fee Schedule establishment
- 32.03 Protocol for the collection of fees for emergency protection fire services

Urban and Rural Taxing Districts

- 32.10 Establishment of taxing districts
- 32.11 Urban service district
- 32.12 Rural service district
- 32.13 Benefits tax ratio
- 32.14 Modification of districts and benefits ratio
- 32.15 Services provided
- Appendix A: Master Fee Schedule

MASTER FEE SCHEDULE

§ 32.01 RECOVERY OF DEBTS INCURRED IN CONNECTION WITH MASTER FEE SCHEDULE.

(A) *Services and goods.* All services rendered, and/or goods provided for under, but not limited to, the City of Fulda Master Fee Schedule Ordinance, are legal, billable, and ultimately the responsibility of the person to which the service and/or goods were provided to (herein the consumer), and are subject to collection under the terms and conditions of this section unless otherwise specified in another City of Fulda ordinance.

(B) *Terms of debt(s) incurred.* All consumers will be issued an invoice within 30 days of the date in which their fee was incurred. All invoices are due in full within 30 days of the Original Invoice Date on the invoice, unless payment arrangements are made by the consumer within 15 days of the Original Invoice

Date on the invoice. Second Notice and Third Notice invoices will be issued if the need arises.

(C) *Recovery of unpaid debt(s) incurred.* Any invoice issued to a consumer that remains unpaid 90 days past the Original Invoice Date may be recovered by an action at law against the consumer, including, but not limited to, assignment to a collection agency, Small Claims Court, and the like. The amount of recovery shall include the unpaid balance of the invoice and all expenses attendant upon the suit for collecting the cost, including, but not limited to, all costs of a collection agency, attorney's fees, and court costs.

(D) *Effective date.* This section shall take effect and be in full force from and after its passage and publication.

(Ord. 193, passed 12-6-2004)

§ 32.02 MASTER FEE SCHEDULE ESTABLISHMENT.

(A) Pursuant to Minnesota law and the City of Fulda Code of Ordinances, and upon a review by the Fulda City Council, a fee schedule for city services and licensing is hereby adopted, by an affirmative vote of the majority of the City Councilmembers present.

(B) The Code of Ordinances of the City of Fulda establishes that certain fees be set from time to time by the City Council.

(C) City Council has reviewed the current fees charged by the City of Fulda and is hereby recommending that the 2025 Master Fee Schedule, in Appendix A at the end of this chapter, be adopted.

(D) Upon consideration and review of the City Council, the 2025 Master Fee Schedule, in Appendix A at the end of this chapter, is hereby adopted and becomes effective January 1, 2025.

(E) This section shall take effect and be in full force from and after its passage and publication.

(Ord. 221, passed 12-2-2013; Am. Ord. 234, passed 12-3-2018; Am. Ord. 236, passed 2-3-2020; Am. Ord. 246, passed 1-4-2021; Am. Ord. 249, passed 12-6-2021; Am. Ord. 250, passed 1-9-2023; Am. Ord. 255, passed 1-2-2024; Am. Ord. 256, passed 12-18-2024)

§ 32.03 PROTOCOL FOR THE COLLECTION OF FEES FOR EMERGENCY PROTECTION FIRE SERVICES.

(A) *Purposes and intent.* This section is adopted for the purpose of authorizing the City of Fulda to charge for fire service as authorized by M.S. §§ 366.011, 366.012, and 415.01.

(B) *Definitions.* For the purposes of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE PROTECTION CONTRACT. A contract between the City of Fulda and a township or other city, for the Fulda Fire Department to provide fire service.

FIRE SERVICE. Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways. This also includes semi-trailers, snowmobiles, travel campers, and all-terrain vehicles.

MUTUAL AID AGREEMENT. An agreement between the City of Fulda and another city for the Fulda Fire Department to provide assistance to the Fire Department of the other city.

(C) *Parties affected.*

- (1) Owners of property within the city who receive fire service.
- (2) Anyone who receives services of the Fulda Fire Department as a result of a motor vehicle accident within the city or in a township with a current fire protection contract.
- (3) Owners of property in townships or cities to which the City of Fulda provides fire service pursuant to a fire protection contract or mutual aid agreement.

(D) *Rates.* The Fire Department fees for service will be determined annually in the City of Fulda's Fee Schedule Ordinance.

(E) *Billing and collection:*

- (1) Parties requesting and receiving fire services may be billed directly by the City of Fulda. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the Fire Department personnel in charge, requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service. The City Council has final decision on waiving charges for any uninsured or underinsured party.
- (2) Parties billed for fire service will be issued an invoice within 30 days of the date in which the bill was incurred. All invoices are due in full within 30 days of the original invoice date listed on the invoice, unless payment arrangements are made by the party within 15 days of the original invoice date listed on the invoice. Second notice and third/final notice invoices will be issued if the need arises.
- (3) Any invoice issued for Fire Department fees that remains unpaid 90 days past the original invoice date may be recovered by an action at

law against the party, including but not limited to assignment to a collection agency, small claims court, and the like. The City Council may also, on or before October 15 of each year, certify the unpaid fire service fee(s) to the County Auditor for collection with property taxes. The city must give notice to the property owner of its intent to certify the unpaid fire service charge.

(4) The party receiving the services of the Fire Department shall be liable for all collection costs incurred by the city, including but not limited to, collection agency fees, reasonable attorney fees and court costs.

(F) *Mutual aid agreement.* When the City Fire Department provides fire service to another Fire Department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(G) *Application of collections to budget.* All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services.

(H) *Effective date.* This section shall take effect and be in full force upon its passage and publication.

(Ord. 199, passed 2-5-2007)

URBAN AND RURAL TAXING DISTRICTS

§ 32.10 ESTABLISHMENT OF TAXING DISTRICTS.

The city is hereby divided into an urban service district and rural service district, pursuant to M.S. § 272.67, as it may be amended from time to time, for the purpose of all municipal property taxes, except those levied for the payment of bonds, and judgments and interest thereon.

(Ord. 225, passed 4-19-2016)

§ 32.11 URBAN SERVICE DISTRICT.

The urban service district shall include all property within the limits of the city, except those set forth by ordinance as the rural service district.

(Ord. 225, passed 4-19-2016)

§ 32.12 RURAL SERVICE DISTRICT.

The rural service district is comprised as follows:

(A) The rural service district shall include unplatted lands which need not be contiguous to one another and platted lands which are not developed, as in the judgment of the Council are rural in character, and are not developed for commercial, industrial or urban residential purpose and for these reasons are not

benefitted to the same degree as other lands by municipal services financed by general taxation.

(B) The rural service district as of the date of adoption of this subchapter shall be comprised of the following parcels of land within the city:

Parcel ID No. 25.026.0320 52.94 acres

Parcel ID No. 25-026-030058.22 acres

Parcel ID No. 25-026-029027.34 acres

Parcel ID No. 25.270.0091 26.23 acres

Parcel ID No. 25.310.0070 3.66 acres

(Ord. 225, passed 4-19-2016; Amended 8-7-2017; Amended 10-2-2017; Amended 6-2-2018)

§ 32.13 BENEFITS TAX RATIO.

The ratio which exists between benefits resulting from municipal services available to lots within the rural service district, and benefits resulting from municipal services available to lots within the urban service district, assuming lots are similar in market value, is established as the same ratio which exists between the overall tax capacity rate which prevails in the adjacent township and the overall tax capacity rate which prevails in the city.

(Ord. 225, passed 4-19-2016)

§ 32.14 MODIFICATION OF DISTRICTS AND BENEFITS RATIO.

By amendment of this subchapter, land may be added to or removed from the rural service taxing district and the benefit ratio may be changed. Whenever any parcel of land included in the rural service district is platted in whole or in part and developed; or whenever application is made for a permit for construction of a commercial, industrial, residential or agricultural building or improvement; or whenever the improvement of building is commenced without a permit; the governing body shall transfer the parcel or part thereof from the rural service district to the urban service district.

(Ord. 225, passed 4-19-2016)

§ 32.15 SERVICES PROVIDED.

Except for fire, police and planning services, the city will provide no other services to the lands in the rural service district beyond those customarily provided by the township in which the lands are located.

(Ord. 225, passed 4-19-2016)

APPENDIX A: MASTER FEE SCHEDULE

Fulda, Minnesota Code of Ordinances

<i>License/Fee/Service Charge</i>	<i>Conditions</i>	<i>2024</i>	<i>2025</i>
Ambulance Fees	BLS Base Rate	\$764	\$850
	No-Load Service Fee	\$75	\$75
	Ambulance Mileage Rate (all services/supplies may not be listed but still qualify as legal and billable fees)	\$14/mile	\$14/mile
	Township Service Agreement	\$45 per section	\$45 per section
Animal License	Dog License Fee - (Ord. 218 - § 91.02(B) License Required)	\$15	\$15
	Cat License Fee - (Ord. 218 - § 91.02(B) License Required)	\$15	\$15
	Duplicate/replacement tag for pet animal (Ord. 218 - § 91.02(B) License Required)	\$2.50	\$2.50
	Kennel Permit Fee - (Ord. 218 - § 91.06(E) Kennel Fees)	\$100	\$100
	Urban Chicken Fee	\$15	\$15
Cigarette/Tobacco License	(Ord. 176, license good for 1 year)	\$50	\$50
Construction and Zoning Permit Fees	Building Permit: new construction (includes residential housing or commercial buildings)	\$150	\$150
	Building Permit: projects 16 feet by 20 feet or larger (garage, addition, large shed, and the like)	\$65	\$65
	Building Permit: projects smaller than listed above (small shed, decks, landscaping, cement work, tear-down, and the like)	\$20	\$20

Fulda, Minnesota Code of Ordinances

<i>License/Fee/Service Charge</i>	<i>Conditions</i>	<i>2024</i>	<i>2025</i>
	Fence Permit	\$20	\$20
	Variance Permit	\$250	\$250
	Non-conformance Fee	\$100	\$100
	Conditional Use Permit	\$250	\$250
	Planned Unit Development (PUD) Permit	\$150	\$150
Emergency Services - Employee Compensation	Ambulance Personnel: On-Call Pay	\$2.50/hr.	\$2.75/hr.
	Meetings/Training	\$10/hr.	\$10/hr.
	Call-Outs	\$13.26 + COLA/hr.	\$13.26 + COLA/hr.
	Ambulance Director	\$1,000/yr	\$1,000/yr.
	Ambulance Vice-Director	\$1,000/yr.	\$1,000/yr.
	Ambulance Secretary/Treasurer	\$750/yr.	\$750/yr.
	Secretarial - billing duty	\$31/run - Expert T	\$28/run - EMS/MC
	Fire Dept. Personnel: Meetings/Training	\$10/hr.	\$10/hr.
	Call-Outs	\$13.26 + COLA/hr.	\$13.26 + COLA/hr.
	Fire Chief	\$1,000/yr.	\$1,000/yr.
	Asst. Fire Chiefs (2)	\$500/yr. each	\$500/yr. each
	Secretary	\$300/yr.	\$300/yr.
Fire Department	Fire Call (false alarm, minimal assistance/time	\$200	\$200

Fulda, Minnesota Code of Ordinances

License/Fee/Service Charge	Conditions	2024	2025
Fees	needed)		
	Fire Call Up to 2 hours/2 hours or more	\$500/\$1,000	\$500/\$1,000
	Request for Assistance	\$250	\$250
	False Alarm, after 3 in 1 year	\$100	\$100
	Fire-fighting foam	billed out at cost	billed out at cost
	Township Service Agreement	\$235 per section	\$235 per section
Garbage Collection	Annual Fee	\$100	\$100
Hall/Building Rent	City Hall	\$50 <u>or</u> \$100 +	\$50 <u>or</u> \$100 + \$100 deposit
	Senior Center building	\$100 deposit + \$100 rent	\$100 rent + \$100 deposit
Liquor License - Intoxicating (Ord. 177 - annual renewal required)	"On-Sale"	\$500	\$500
	"Special On-Sale Exception" - Fulda Am. Legion	\$150	N/a
	"Special On-Sale Exception" - T&C Golf	\$300	N/a
	"Off-Sale"	\$100	\$100
	"Sunday"	\$100	\$100
	"Special Club License"	M.S. § 340A.408, Subd. 2	M.S. § 340A.408, Subd. 2
Liquor License - 3.2% (Ord. 167 - annual renewal	3.2% "On-sale"	\$50	\$50
	3.2% "Off-Sale"	\$25	\$25

Fulda, Minnesota Code of Ordinances

License/Fee/Service Charge	Conditions	2024	2025
required)	3.2% "Temporary On-Sale"	\$10/day	\$10/day
Mileage Reimbursement	IRS standard rate, calculated per individual trip	established IRS rate	established IRS rate
NSF Check Fee	Collectable per occurrence (bank fee is also collected per occurrence)	\$25 NSF plus bank fee	\$25 NSF plus bank fee
Funeral Escorts	Collectable per escort, billed out monthly	\$100	\$100
UTILITY RATES:			
Water Conservation Rates (adopted 12-07-09 via Resolution 2009-06)	Residential: Base - 1,000 minimum bill	New rate structure went into effect September 3, 2013	New rate structure went into effect September 3, 2013
	1,001 - 10,000 gal.		
	10,001 - 15,000 gal.		
	15,001 gal. and up		
	Commercial: Base - 1,000 minimum bill		
	1,001 - 150,000 gal.		
	150,001 gal. and up		
	Unmetered trailerhome - base fee		
	Test bill charge		
	Per unit service fee for all multi-unit residential buildings		
User fee	1,000 minimum bill	New rate structure went into effect September 3, 2013	New rate structure went into effect September 3, 2013
	Each additional 100 gallons over 1,000		
Water	Each 100 gal. (service provided to properties out of city limits calculated at 2x the above listed rate)	\$0.572	\$0.572
	Unmetered trailerhomes - flat usage rate	\$40/month	\$40/month

Fulda, Minnesota Code of Ordinances

License/Fee/Service Charge	Conditions	2024	2025
	Test bill charge	\$1.50	\$1.50
	Per unit service fee for all multi-unit residential buildings	\$6/unit/month	\$6/unit/month
Base rate (formerly known as user fee)	All service connections - base rate	\$25/month	\$25/month
Sewer	1,000 gal. minimum bill	\$8	\$8
	Each additional 100 gallons over 1,000 (service provided to properties out of city limits is calculated at 2x the above listed rate)	\$0.15	\$0.15
	Unmetered trailerhome - base fee	\$16	\$16
	Out-of-town sewer service only (base rate)	\$16	\$16
	Lagoon improvement fee	\$3.25 per connection	\$3.25 per connection
	Per unit lagoon improvement fee (for multi-unit residential buildings)	\$1.50 per occupied unit	\$1.50 per occupied unit
Infrastructure Improvement Fee	All service connections	\$5/month	\$7.50/month
Garbage Collection Rates (billed monthly)	35 gal. cart	\$9.29 + 9.75% tax	\$9.29 + 9.75% tax
	65 gal. cart	\$12.59 + 9.75% tax	\$12.59 + 9.75% tax
	95 gal. cart	\$19.29 + 9.75% tax	\$19.29 + 9.75% tax
	(for cart combinations, add prices together)		
	Apartment Buildings (Centennial and Heritage)	\$72 + 9.75% tax	\$72 + 9.75% tax
	Recycling Fee	\$3.57	\$3.57

Fulda, Minnesota Code of Ordinances

<i>License/Fee/Service Charge</i>	<i>Conditions</i>	<i>2024</i>	<i>2025</i>
	Garbage Billing Fee	N/a	N/a
Utility Service Fees	Utility down payment - metered structures	N/a	N/a
	Utility down payment - unmetered structures	N/a	N/a
	Reconnect fee	\$25	\$25
	Meter reading done by city employee	\$10	\$10
	No-read fee	\$10	\$10
	Street replacement due to utility repairs	\$4.25 per square foot	\$4.25 per square foot
	Late fee penalty #1	\$5	\$5
	Late fee penalty #2	\$10	\$10
	Disconnect notice hanging fee	\$25	\$25
New Service Fees (Resolution 96-03)	Water hook-up charge (3/4-inch line connection)	\$400	\$400
	Sewer hook-up charge (new connection)	\$400	\$400
	3/4-inch water meter	no charge	no charge
	Water meter larger than 3/4-inch	billed at cost	billed at cost
MISC: City Burn Site/Compost	Outside city boundaries (1 mile radius)	\$30/yr.	\$30/yr.
	Cement/asphalt/concrete	\$10/cubic yard	\$10/cubic yard
	<u>Violation of Ord. 245</u> *1st offense - petty misdemeanor	\$300*	\$300*
	2nd offense within 12 months - misdemeanor	\$1,000	\$1,000**
Fees for City Services	Mowing (contracted vendor)	billed at cost	billed at cost
	Mowing by city employees (min. 1 hr.	\$60/hr.	\$60/hr.

Fulda, Minnesota Code of Ordinances

<i>License/Fee/Service Charge</i>	<i>Conditions</i>	<i>2024</i>	<i>2025</i>
	charge)		
	Snow removal - snowblower (min. 1 hr. charge)	\$60/hr.	\$60/hr.
	Snow removal - loader/truck (min. 1 hr. charge)	\$175/hr.	\$175/hr.
	Administrative fee for billed services	\$50	\$50

(Am. Ord. 201, passed 7-2-2007; Am. Ord. 202, passed 8-6-2007; Am. Ord. 206, passed 9-2-2008; Am. Ord. 210, passed 2-8-2010; Am. Ord. 213, passed 12-6-2010; Am. Ord. 215, passed 12-5-2011; Am. Ord. 217, passed 2-12-2013; Am. Ord. 219, passed 7-1-2013; Am. Ord. 220, passed 9-3-2013; Am. Ord. 221, passed 12-2-2013; Am. Ord. 223, passed 3-2-2015; Am. Ord. 224, passed 12-7-2015; Am. Ord. 228, passed 12-5-2016; Am. Ord. 230, passed 12-4-2017; Am. Ord. 234, passed 12-3-2018; Am. Ord. 236, passed 2-3-2020; Am. Ord. 239, passed 6-1-2020; Am. Ord. 246, passed 1-4-2021; Am. Ord. 249, passed 12-6-2021; Am. Ord. 250, passed 1-9-2023; Am. Ord. 255, passed 1-2-2024; Am. Ord. 256, passed 12-18-2024)

TITLE V: PUBLIC WORKS

Chapter

- 50. WATER**
- 51. SEWERS**
- 52. SOLID WASTE**

CHAPTER 50: WATER

Section

Water Department

- 50.01 Establishment
- 50.02 General water regulations
- 50.03 Meters
- 50.04 Water rate schedule
- 50.05 Payment of water charges

- 50.06 Shut-off for nonpayment
- 50.07 Provisions on application and owner-customer responsibility

General Provisions

- 50.20 Policy for supplying city water services to properties abutting city

WATER DEPARTMENT

§ 50.01 ESTABLISHMENT.

There is hereby established a Water Department, which shall be under the supervision of the City Councilmember designated as the Department head. The Department shall be responsible for the management, maintenance, care, and operation of the water works system of the city.
(Ord. 132, passed 5-6-1985)

§ 50.02 GENERAL WATER REGULATIONS.

(A) *Discontinuance of service.* The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in § 50.06, or for violations of rules and regulations affecting utility service.

(B) *Curb stop, meter, and water supply for single service.* No more than 1 house or building shall be supplied from 1 service line connection, except by special permission of the Council. Whenever 2 or more parties are supplied from 1 pipe connecting with a service line, each building or part of building separately supplied shall have a separate curb stop box and meter. The city shall be required to supply a curb stop box and meter, free of charge, to household and commercial users with service lines and meters of 3/4 inch. All users/owners of buildings requiring service lines and meters larger than 3/4 inch will be responsible for the cost of the larger meters. Once installed, these larger meters will then become the charge of the city, and it will be the city's responsibility to bear the cost of the meters maintenance and repairs.
(Am. Ord. 163, passed 6-21-1993)

(C) *Multi-unit residential buildings.* For any multi-unit residential building in the City of Fulda that does not present a feasible option, either monetarily or physically, for installing a separate curb stop and/or meter, a per unit service fee will be charged to the property owner on their monthly utility bill. This division (C) shall take effect and be in full force from and after its passage and publication, with no exceptions or grandfather clauses.
(Ord. 189, passed 7-6-2004)

(D) *Turning on water, tapped mains.* No person except an authorized city employee shall turn on any water supply at the stop box or tap any distribution main or pipe of the water supply system or insert a stop cock or other appurtenance therein without a city permit.

(E) *Repair of leaks.* The consumer or owner shall be responsible for maintaining the service pipe from the curb stop into the building service. If he or she fails to repair any leak in the service pipe within 24 hours after notice by the city, the city may turn the water off. If the potential of a great loss of water or damage to property is likely as a result of the leak, the city shall have the right to turn the water off immediately. The water shall not be turned on again until the sum of \$10 has been paid to the city.

(Am. Ord. 163, passed 6-21-1993)

(F) *Use of fire hydrants.* No person other than an authorized city employee or authorized Fire Department member shall operate a fire hydrant or interfere in any way with the water system without first obtaining authority to do so from the Water Superintendent.

(G) *Private water supply.* No water of the city water supply system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When any such connection is found, the Water Department shall notify the owner to sever the connection and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection in the city system is permitted, the Department shall ascertain that no cross connection will exist when the new connection is made.

(H) *Restricted hours.* Whenever the Council determines that a shortage of water threatens the city, it may, by resolution, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the resolution or 2 days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution and any customer who does so shall be charged \$10 for each day of violation and the charge shall be added to his or her next water bill. If the emergency requires immediate compliance with the terms of the resolution, the Council may provide for the delivery of a copy of the resolution to the premises of each customer, and any customer who has received the notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

(I) *Permitting use by others.* No person shall permit city water to be used for any purpose except upon his or her own premises except in an emergency and then only if written permission is first obtained from the Water Superintendent. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the Water Superintendent for the services. (Ord. 132, passed 5-6-1985)

(J) *Materials.* Service lines from the curb stop to the water meter shall be of copper or 200 lb. p.s.i. polyethylene pipe and installed below the frost line. Lead or galvanized steel pipe shall not be used under any circumstances, any existing service connections identified shall be replaced by the building owner, at

the building owners expense, within 30 days of notification by the City of Fulda Water Superintendent. This division (J) takes effect upon its passage and publication.

(Ord. 173, passed 9-15-1997) Penalty, see § 10.99

§ 50.03 METERS.

(A) *Meters required.* Except for the extinguishment of fires, no person other than an authorized city employee shall use water for the city water supply system or permit water to be drawn therefrom unless the water passes through a meter supplied or approved by the city. No person not authorized by the Water Department shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use.

(B) *Maintenance.* The city shall maintain and repair at its expense any meter that has become un-serviceable through ordinary wear and tear and shall replace it if necessary. Where repair or replacement is made necessary by act or neglect of the owner or occupant of the premises it serves, and city expense caused thereby shall be a charge against and collected from the water consumer, and water service may be discontinued until the cause is corrected and the amount charged is paid.

(C) *Complaints; meter testing.* When a consumer complains that the bill for any past service period is excessive, the city shall have the meter re-read on request. If the consumer remains dissatisfied, he or she may, on written request and the deposit of \$25, have the meter tested. If the test shows an error in the city's favor exceeding 5% of the water consumed, the deposit shall be refunded, and accurate meter shall be installed, and the bill shall be adjusted accordingly. The adjustments shall not extend back more than 1 service period from the date of the written request.

(D) *Meter reading and inspection.* Meters shall be read by the consumer and the monthly reading shall be handed to or mailed to the City Clerk-Treasurer. The Clerk-Treasurer shall mail out the monthly billing on which 1 section is to be detached and returned with payment. The detached portion will provide a space on which the consumer will insert the meter reading for the next month's billing. If the city is required to have a meter reading because of the failure of the customer to do so, the customer will be charged \$10 and the charge will be collected as other water charges are collected.

(Am. Ord. 143, passed 10-22-1990)

(Ord. 132, passed 5-6-1985) Penalty, see § 10.99

§ 50.04 WATER RATE SCHEDULE.

(A) *Generally.* Water rates, connection charges, and notice charges shall be fixed from time to time by Council resolution.

(Ord. 132, passed 5-6-1985)

(B) *Multi-unit residential buildings.* A per unit service fee, as described in § 50.02(C), shall be set and adjusted from time to time, by a Council-adopted ordinance. This division (B) shall take effect and be in full force from and after its passage and publication.

(Ord. 190, passed 7-6-2004) Penalty, see § 10.99

§ 50.05 PAYMENT OF WATER CHARGES.

Statements for total water charges for the preceding month shall be mailed by the Deputy Clerk to each customer on or before the first day of each month. The amount listed on the statement shall be due on or before the fifteenth day of the month following the month covered by the statement. If payment is not made by that time, the customer shall be assessed a service charge of \$5. A second notice will be given after seven days and a service charge of \$10 will be assessed. Seven days after a second notice is given, a disconnect notice is to be mailed.

(Ord. 132, passed 5-6-1985; Am. Ord. 143, passed 10-22-1990; Am. Ord. 240, passed 6-1-2020)

§ 50.06 SHUT-OFF FOR NONPAYMENT.

(A) The city shall endeavor to collect delinquent accounts promptly. In any case where satisfactory arrangements for payment have not been made, the Water Department, may, after the procedural requirements of division (B) below have been complied with, discontinue service to the delinquent customer by shutting off the water at the curb stop box. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent amounts due, plus a fee for re-connection of \$25.

(Am. Ord. 163, passed 6-21-1993)

(B) Water shall not be shut off under division (A) above until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be personally served and shall state that if payment is not made before a date fixed and stated in the notice, but not less than 10 days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before the date demand a hearing on the matter, in which case the supply will not be cut off until after the hearing is held. If the customer request a hearing before the date specified, a hearing shall be held on the matter by the City Council at least 1 week after the date on which the request is made. If as a result of the hearing the City Council finds that the amount claimed to be owing is actually due and owing and unpaid and that there is no legal reason why the water supply for the delinquent customer may not be shut off in accordance with this subchapter, the city may shut off the supply.

(Ord. 132, passed 5-6-1985)

§ 50.07 PROVISIONS ON APPLICATION AND OWNER-CUSTOMER RESPONSIBILITY.

(A) *Application for service.* Application for a water service installation and for water service shall be made to the City Council on forms prescribed by the Council and furnished by the city. By his or her signature, the applicant shall agree to conform to this subchapter and the rules and regulations that may be established by the city as conditions for the use of water.

(B) *Accounts in the name of the owner.* All accounts shall be carried in the name of the owner, who personally, or by his or her authorized agent, shall apply for the service. The owner shall be liable for water supplied to his or her property whether he or she is occupying the property or not, and any charges unpaid shall be a lien upon the property.

(Ord. 132, passed 5-6-1985)

GENERAL PROVISIONS

§ 50.20 POLICY FOR SUPPLYING CITY WATER SERVICES TO PROPERTIES ABUTTING CITY.

(A) *Generally.* Subsequent to the adoption of this section, the furnishing of water from the municipal system shall be restricted to property lying within the city limits of the City of Fulda, Minnesota, and to properties abutting the city limits or the property for which the furnishing of water has been authorized heretofore by the Council.

(B) *Water rates.* The water rates for properties outside the city limits are to be set at twice the regular monthly rate for water users within city limits.

(C) *Hookup cost.* The cost of hooking up to the city's water mains will be borne by the property owner requesting the hookup. These charges are to be set at the same as those charges set for property owners within city limits. Upon the annexation of a property receiving city services, the water rate will revert to a regular monthly rate for water users within city limits.

(D) *Disconnection.* In the event that any person shall permit an unauthorized connection or use of an existing water supply, upon notice and a hearing before the Council, the water service shall be subject to disconnection and the water supply discontinued.

(Ord. 158, passed 4-6-1992)

CHAPTER 51: SEWERS

Section

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§ 51.01 TITLE AND APPLICATION.

(A) *Title.* This subchapter shall be known and may be cited and referred to as the City of Fulda, when referred to herein, it shall be known as this subchapter.

(B) *Purpose and intent.* This subchapter is enacted for the following proposes: to promote the health, safety, and general welfare throughout the City of Fulda; lessening congestion in the public rights-of-way; securing safety from fire, panic, and other dangers; providing adequate light and air; facilitating the adequate provisions of water, sewerage, and other public requirements; conserving the value of properties; and encouraging the most appropriate use of land.

(C) *Jurisdiction, scope, and interpretation.* The jurisdiction of this subchapter shall apply to all the area of the City of Fulda.
(Ord. 171, passed 9-16-1996)

§ 51.02 RULES AND DEFINITIONS.

Fulda, Minnesota Code of Ordinances

(A) *Rules.* For purposes of this subchapter, certain terms or words used herein shall be interpreted as follows.

(1) The word **PERSON** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(2) The word **SHALL** and **MUST** is mandatory, and not discretionary, the **MAY** is permissive.

(3) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.

(4) The term **USED FOR** shall include the phrases **ARRANGED FOR, DESIGNED FOR, INTENDED FOR, MAINTAINED FOR, and OCCUPIED FOR.**

(5) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is 1/2 foot or less, the integral foot next below shall be taken.

(B) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASTM. The American Society for Testing Materials.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal, also called **HOUSE CONNECTION.**

COMBINED SEWER. A sewer intended to receive both wastewater and storm or surface water shall not be allowed within the City of Fulda.

EASEMENT. An acquired legal right for the specific use of land owned by others.

EPA. The Environmental Protection Agency.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

INDUSTRIAL WASTE. The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary waste.

NATURAL OUTLET. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or ground water.

PCA. The Minnesota Pollution Control Agency.

pH. The reciprocal of the logarithm of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10⁻⁷.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A common sewer controlled by a governmental agency or public utility.

SANITARY SEWER. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

SEWAGE. The spent water of a community. The preferred term is **WASTEWATER**.

SEWER. A pipe or conduit that carries wastewater or drainage water.

STORM DRAIN. Sometimes termed **STORM SEWER**, shall mean a drain or sewer for conveying water, ground water, subsurface water, or unpolluted water from any source.

SUPERINTENDENT. The Superintendent of the Wastewaters Systems of the City of Fulda, or his or her authorized deputy, agent, or representative.

SUSPENDED SOLIDS. The total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as non-filterable residue.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial, buildings, industrial plants, and institutions, together with any ground water, surface water, and storm water that may be present.

WASTEWATER FACILITIES. The structures, equipment, and process required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS. An arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used synonymously with **WASTE TREATMENT PLANT** or **WASTEWATER TREATMENT PLANT** or **WASTEWATER LAGOON SYSTEM** or **LAGOON SYSTEM** or **WATER POLLUTION CONTROL PLANT**.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.

WORKING HOURS. 7:30 a.m. to 4:00 p.m. on Monday through Friday.
(Ord. 171, passed 9-16-1996)

§ 51.03 USE OF PUBLIC SEWERS REQUIRED.

(A) *Depositing excrement or objectionable waste.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Fulda, or in any area under the jurisdiction of the city any human or animal excrement, garbage, or objectionable waste.

(B) *Polluting natural outlets.* It shall be unlawful to discharge to any natural outlet within the City of Fulda, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

(C) *Privy or cesspool.* Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(D) *Required hook-up.* The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that the public sewer is within 100 feet (30.5 meters) of the property line. All properties shall be connected to the city sanitary sewer system. Public sanitary sewer lines regardless of size shall be paid for by the developer or in accordance with the city's assessment standards. Where sanitary sewer lines are installed in the street right-of-way all sewer stub connections shall be brought to a point at least 5 feet inside the curb line. Plans indicating the exact location of all sewer stubs shall be filed with the City Clerk-Treasurer.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.04 PRIVIES.

(A) *Connection required.* Every owner(s) of any building or premises upon any street upon which there is a public sewer and city water pipes adjacent to the property, upon which any privy or other toilet is maintained or kept, shall, when required by the City Council, install in the premises, the proper toilet equipment and connect the same with the sewer, or connect any toilet already installed with the sewer.

(B) *Notice to connect.* The City Council may at any time, and shall when recommended by the Sewer Superintendent, order any person maintaining or keeping any privy or other toilet on his or her premises adjacent to the city sewer and water, to install within 30 days after the notice the proper toilet and connect the same with the city sewer, or connect the toilet already installed with the sewer. The notice shall be signed by the Mayor and served by the Chief of Police upon the owner(s) of the premises if he or she can be found in the city, if not then upon his or her agent in charge of the property if there is one, if there is no agent then upon the occupant or tenant. One copy shall in all cases be served upon the occupant or tenant.

(C) *Failure to connect.* It shall be unlawful for the owner(s) of occupant of any such premises, after the expiration of the 30 days after the notice, to use the privy or other toilet unconnected with the sewer, and the Sewer Superintendent shall have power to order the owner to clean out and fill up, or fill in, any privy vault, cesspool, or other receptacle used for toilet purposes; and the officer may, in case the owner(s) fails to obey the order, enter upon the premises and cause the same to be filled or removed, and the expense shall become a charge in favor to the city against the owner(s).

(D) *Installation prohibited.* It shall be unlawful for any property owner or other person hereafter to install any privy, or any cesspool within the city on any property abutting on any street where there is a public sewer and water pipes adjacent to the property.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.05 PRIVATE WASTEWATER DISPOSAL.

(A) *Private wastewater systems.* Where a public sanitary is not available under the provisions of § 51.03, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter.

(B) *Permit.* Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit, signed by the City Council. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement with any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit fee of \$10 shall be paid to the city at the time the application is filed, an inspection fee when appropriate shall be assessed on a cost basis.

(C) *Private wastewater system inspection.* A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered.

The inspection shall be made within 12 working hours of the receipt of notice by the Superintendent.

(D) *Compliance and lot size.* The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health of the State of Minnesota, Minnesota Pollution Control Agency, and Minnesota Department of Natural Resources. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 40,000 square feet and a minimum width of 150 feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) *Mandatory abandonment of private wastewater systems.* At the time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 51.04, a direct connection shall be made to the public sewer within 60 days in compliance with this subchapter and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(F) *Operation in sanitary manner.* The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.06 BUILDING SEWERS AND CONNECTIONS.

(A) *Unauthorized connections.* No unauthorized person(s) shall uncover, make connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

(B) *Classes of building sewer permits.*

(1) There shall be 2 classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishment producing industrial

wastes.

(2) In either case, the owner(s) or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the city at the time the application is filed. The amount of each fee to be determined by resolution of the City Council.

(C) *Owners responsibility for connection and maintenance.* All cost and expenses incidental to the installation, connection, and maintenance of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) *Separate and independent building sewers.* A separate and independent building sewer shall be provided for every building; except where 1 building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as 1 building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(E) *Use of old building connections.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this subchapter.

(F) *Building and plumbing codes.* The size, slope, alignment, materials, or construction of a building sewer, and methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provision of in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(G) *Sewer elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by any approved means and discharged to the building sewer. All cost and expenses incidental to the installation, connection, and maintenance of the private lift shall be borne by the owner(s).

(H) *Ground water and storm water run-off.* No person(s) shall make connection of roof downspouts, foundations drains, areaway drains, or other sources of surface run-off or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless the connection is approved by the Superintendent and City Council for purposes of disposal of polluted surface drainage.

(I) *Gastight and watertight connections.* The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All the connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(J) *Notifying Superintendent for inspection and connection.* The application for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his or her representative.

(K) *Excavations and safety.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to

protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.07 CONSTRUCTION STANDARDS.

(A) *Specification generally.* All building sewers shall be constructed of either vitrified-clay sewer pipe and fittings meeting the current ASTM Specifications for standard or extra Strength Clay Sewer Pipe, or extra-heavy cast-iron soil pipe meeting the current ASTM specifications of the Department of Commerce, Commercial Standards for Extra Heavy Cast Iron Soil Pipe and Fittings, or plastic PVC pipe and fittings meeting the current ASTM specifications for Sewer Pipe. If installed in filled or unstable ground, the building sewer shall be of cast-iron soil pipe, except that vitrified clay pipe may be accepted if laid on a suitable improved bed or cradle as approved by the engineer or superintendent, or their representative. Sewer materials, other than those approved by ASTM, may be used if approved by resolution of the City Council.

(B) *Size and slope of sewer.* The size and slope of the building sewer shall be subject to the approval of the Superintendent but in no even shall be the diameter be less than 4 inches. The slope of the 4-inch pipe shall be less than 1/8 inch per foot. A slope of 1/4 inch per foot shall be used wherever practical.

(C) *Sewer depth.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all cases provisions shall be made to afford protection from the frost.

(D) *Low drain.* In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drains shall be lifted by approved artificial means and discharge to the building sewer. No water-operated sewage ejector shall be used unless demonstrated to be capable of meeting requirements for the purpose.

(E) *Excavations.*

(1) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the Superintendent or his or her representative.

(2) Notice of intention to begin excavation and to have inspection thereof shall be given to the Superintendent within 1 normal working day of the time fixed for connection of same.

(F) *Specifications for joints of building sewer.* All joints and connections shall be made gastight and watertight. Vitrified-clay sewer pipe shall be fitted with factory made resilient compression joints meeting the ASTM Specifications for Vitrified Clay Pipe Joints Having Resilient Properties. Before jointing the pipe in the trench, the bell-and-spigot surface shall be wiped free of dirt or other foreign matter. A lubricant or sealer as recommended by the pipe

manufacturer shall be applied to the bell-and-spigot mating surfaces just before they are jointed together. The spigot end shall be positioned into the bell and end of the pipe previously laid and shall then be shoved home to compress the joint and to assure a tight fit between the interfaces. Joints for the cast-iron soil pipe shall be made by inserting a roll of hemp or jute well caulked, not less than 1 inch deep; rubber ring joints or the other methods demonstrated as capable of meeting the purpose will also be permitted. No paint, varnish, or putty will be allowed in the joints until they have been tested and approved by the Superintendent.

(G) *Manner of connecting to public sewer.* The connection of the building sewer into the public sewer shall be made at the Y branch designated to that property, if the branch is available at the suitable location. Any connection not made at the designated Y branch in the main sewer shall be made only as directed by the Superintendent.

(H) *Notice to Superintendent when ready for connection; supervision of connection.* Within 1 normal working day of the time fixed for connection, the applicant for the building sewer shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

(I) *Protection of work.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public properties disturbed in the course of the work shall be restored in a manner satisfactory to the City Council. (Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.08 USE OF PUBLIC SEWERS.

(A) *Discharge of unpolluted waters to storm sewers.* No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof run-off, subsurface drainage, or cooling water to any sewer; except for storm water run-off from limited areas which may be polluted at times, may be discharged to the sanitary sewer by the permission of the PCA or EPA.

(B) *Discharge of unpolluted water to storm sewer or natural outlet.* Storm water, other than that exempted under § 51.07, and all other unpolluted drainage shall be discharged to the sewers or storm sewers or to a natural outlet approved by the Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

(C) *Prohibited discharge to public sewers.* No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewer:

(1) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas;

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(2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater stabilization pond;

(3) Any waters or wastes having a pH lower than 5.5 or higher than 8.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works; and/or

(4) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers, or other interference with proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, cloth fibers, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails, and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(D) *Limited discharge of certain substances or materials.* The following described substances, materials, waters or waste shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his or her opinion the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Superintendent will give consideration to the factors as the quantity of subject waste in relations to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the lagoon system, degree of treatability of the waste in the lagoon system, and other pertinent factors. The limitations or restriction on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

(1) Wastewater having a temperature higher than 150°F (65°C);

(2) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin;

(3) Wastewater from industrial plants containing floatable oils, fat, or grease;

(4) Any garbage that has not been properly shredded.

Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparations of food in kitchens for the propose of consumption on he or she premises or when served by caterers;

(5) Any water or wastes containing odor-producing substances exceeding limits which may be established by the PCA in compliance with applicable state and federal regulations;

(6) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to the degree that any such

material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the PCA for the materials;

(7) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the PCA in compliance with applicable state or federal regulations;

(8) Quantities of flow, concentrations, or both which constitute a **SLUG** as defined herein;

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by wastewater treatment processes employed, or are amenable to treatment only to the degree that the wastewater stabilization pond effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

(10) Any water or waste which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(E) *Council action on deleterious wastewater.* If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 51.05 and which in the judgment of the Superintendent may have a deleterious effect upon the wastewater stabilization pond, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Council may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge;

(4) Require payment to cover added cost of handling and treating the wastes not covered by the existing taxes or sewer charges under the provisions of § 51.07; and/or

(5) Should there be any major increase in the BOD strength of volume of wastewater discharged into the system by any user over their normal pattern of discharge prior to the contemplated increase to be discharged into the system any such user shall give 48-hours notice of the proposed increase to the Wastewater Treatment Superintendent. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City Council.

(F) *Grease, oil, and sand interceptors.* Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 51.07, or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these

interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent.

(G) *Pretreatment or flow equalizing.* Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(H) *Sewer metering.* When required by the City Council, the owners of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(I) *Private sewer effluent.* All measurements, test, and analysis of the characteristics of water and wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of the *Standard Methods for Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

(J) *Disclaimer.* No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby and industrial waste of unusual strength or character may be accepted by the city for treatment.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.09 DESTRUCTION OF WASTEWATER FACILITIES UNLAWFUL.

No person(s) shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct or other charge appropriate to the offense committed.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

§ 51.10 POWERS AND AUTHORITY OF INSPECTORS.

(A) *Inspection, observation, measurement, sampling, and testing.* The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the

purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this subchapter.

(B) *Authorized to obtain information.* The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind of sources of discharge to the wastewater collection system. The industry may withhold information it considers confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(C) *City employees shall observe company safety rules.* While performing the necessary work on private properties referred to in § 51.09, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property to city employees and against liability claims and demand for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.07.

(D) *Negotiated easements.* The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement to the private property involved.

(Ord. 171, passed 9-16-1996)

§ 51.11 SEWER RATES.

(A) *Establishment of sewer charges.* It is hereby determined and declared to be necessary for the due protection of the public health, safety, and welfare of the City of Fulda to establish and collect charges for the use of the system on all lots, lands, and premises served by or having connection with the system.

(B) *Sanitary Sewer Fund.* The funds received from the collection of the rates and charges hereinafter provided shall be deposited as received with the City Clerk-Treasurer, who shall keep the same in a separate fund designated Sanitary Sewer Fund. Subject to the provisions of any ordinance or indenture of mortgage authorizing the issuance of and securing revenue bonds for the system, monies in the fund shall be used for the payment of the cost and expense of operation, maintenance, repair, and management of the system and for payment of debt charges on bonds issued for construction of this system, and any surplus in the fund over and above the requirements hereinbefore

mentioned, may be used for enlargements of and replacements to the systems and parts thereof.

(C) *Sewer charges and rates.* For the purposes provided in divisions (A) and (B) above there is hereby levied and charged on each lot, parcel of land, or premises in the city having a connection with the system, or otherwise discharging sewage, industrial waste, water, or other liquids, either directly or indirectly into the system, sewer charges payable as hereinafter provided and in the amounts to be determined as follows: sewer rates, connection charges, and notice charges shall be fixed from time to time by Council resolution.

(D) *Sewer hook-ups outside city limits.* With respect to any premises situated outside the corporate limits of the City of Fulda, no sewer hookups to the city system shall be allowed.

(1) Any property situated outside the corporate limits of the City of Fulda that was authorized by the city to connect to the city sewer system as of July 6, 2020, shall be allowed to remain connected to the city sewer system indefinitely.

(2) The sewer charges and rates for properties outside the city limits are to be set at twice the regular monthly rate for sewer users within city limits.

(E) *Special or additional charges.* Over and above the rates and charges established in division (C) above there may be established, in special instances and on special agreement between the city and owner(s) of any premises served by the system, the additional charges for commercial, industrial wastes of unusual strength or composition that are accepted by the city for treatment, as may be determined to be fair and equitable, each such special agreement and charges established therefor shall not become effective until ratified by a resolution duly passed by the City Council of the City of Fulda.

(F) *Monthly billing and service charges.* The sewer charges levied at the rates established by division (C) above shall be effective beginning 1-1-1996, and shall thereafter be billed and mailed by the Clerk-Treasurer to each customer on or before the first day of each month. The amount listed on the statement shall be due on or before the fifteenth day of the month following the month covered by the statement. If payment is not made by that time (16 days after first day of the month), the customer shall be assessed a service charge of \$3. A second notice will be given after 7 days and a service charge of \$5 will be assessed (22 days after first day of the month). Seven days after a second notice is given, a disconnect notice is to be mailed (29 days after first day of the month).

(G) *Lien upon a premises.* Each sewer charge levied pursuant to this subchapter is hereby made a lien upon the premises charged therewith, and if the same is not paid within 90 days after it shall be due and payable, it shall be later certified to the Treasurer of Murray County who shall place the same on the tax statement, with the interest and penalties allowed by law and be collected as other municipal taxes are collected.

(H) *Volume based sewer charges.* The following measure as to volume shall be used to determine the sewage charges provided in division (C) above on premises served by the system:

(1) On premises using water exclusively supplied by the municipal waterworks of the City of Fulda, the quantity of water used, as measured by the meter, shall determine the sewer charge thereon, as provided herein;

(2) On premises using water exclusively supplied from other sources than the municipal waterworks where the quality of water used thereon is not measured by a water meter or is measured by a water meter not acceptable to the City of Fulda, the owner(s) or other interested party may be required at his or her expense to install and maintain an acceptable water meter, and the quality of water used as measured by the meter shall determine the sewage charge as herein provided, or the quality of water used may be established by agreement between the owner or interested party and the city;

(3) On premises using water supplied in part by the municipal waterworks and in part from other sources not measured by a water meter acceptable to the city, the owner(s) or other interested party may be required, at his or her expense, to install and maintain an acceptable water meter to measure water from the other sources, and the quality of water used as measured by the meter plus the measured quantity as supplied by the municipal waterworks shall determine the water quantity for the sewage charge as herein provided, or the quantity of water used may be established by agreement between the owner(s) or interested party and the city;

(4) In the event it can be shown to the satisfaction of the City Council, with respect to any premises, that a portion of the water from any source used thereon does not and cannot enter the system, then in each such case the owner(s) or other interested party may, at his or her expense, install and maintain separate water meters where necessary so as to show to the satisfaction of the city that portion only of the water used that is discharged into the system and that quantity of water so used as measured by the meter or meters showing discharge into the system, shall determine the sewage charge thereon at the rates provided herein, or, if the quality of water being discharged into the system is established by agreement, the negotiated quantity at the rate provided herein shall determine the sewage charge; and

(5) The owner of any building or premises receiving water from any source other than the municipal waterworks shall register the same with the city and shall install, at his or her own expense, metering equipment satisfactory to the city to measure the private supply, or at the option of the city may establish by agreement the quality of water to be discharged into the system. In any interim period allowed by the City Council of the City of Fulda prior to the installation or agreement, the Council may establish the charges as it deems equitable.

(Ord. 171, passed 9-16-1996; Am. Ord. 243, passed 7-6-2020) Penalty, see § 10.99

§ 51.12 EFFECTIVE DATE.

This chapter shall be effective upon its adoption and publication.
(Ord. 171, passed 9-16-1996)

REDUCTION OF CLEAR WATER

§ 51.25 APPLICABILITY.

This subchapter shall apply to all water entering the sanitary sewer system unless explicitly exempted by the city. The city and its representatives are authorized to administer, implement, and enforce the provisions of this subchapter.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLEAR WATER. Storm water, natural precipitation, melting snow, ground water, roof drainage, ground surface and subsurface drainage, down spout, yard drain, sump pump, foundation drain, yard fountain, pond, swimming pool, cistern overflow, or any other water that is not required to be treated by state or federal law. Swimming pool water that is required to be treated in accordance with city, county or state regulations shall not be considered ***CLEAR WATER.***

SEWER BACKUPS. The property owner is responsible for clearing any blockage in the service line between the home and the city sanitary sewer main. This includes debris and tree roots. The property owner is also responsible for cleaning and repairing and damage done to the property by the backup. In the event the blockage is caused by the failure of a sewer service pipe the responsibility will be determined by the upper lateral, lower lateral responsibility.

SEWER SERVICE LATERAL. All sewer service pipes that extend from the municipal sewer main to the structure that it serves. Homeowner is responsible for the repair or replacement of damaged sewer service pipes from the home to property line (upper lateral). The city is responsible for the repair or replacement of damaged sewer service pipes from the property line to the main (lower lateral).

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.27 COMPATIBILITY WITH OTHER REGULATIONS.

This subchapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this subchapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this subchapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall apply. (Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.28 PROHIBITION AGAINST DISCHARGE INTO THE SANITARY SEWER SYSTEM.

No person shall discharge or cause to be discharged into the municipal sanitary sewer collection system, or infiltrate into the sanitary sewer system any clear water because of a sump pump (except as provided in § 51.29), defective plumbing, a defective sewer service lateral, or by any other means. (Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.29 SUMP PUMP REGULATION.

(A) Any dwelling, structure, or building that has a sump pump discharge system to remove groundwater from its foundation drain must have a permanently installed discharge line.

(B) In accordance with §§ 51.01 through 51.12, it is unlawful to discharge sump pumps in the city sanitary sewer system between April 15 and November 1. Valving or quick connections allowing the sump pump to discharge into the yard or street must be present or installed to comply with the April 15 through November 1 discharge requirement. (Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.30 INSPECTION.

(A) By August 30, 2026, every person owning improved real estate, or contractors and builders who are building a structure connected to the city's sanitary sewer system, shall obtain an inspection of each building located on such property by an inspector designated by the city. The purpose of this city inspection shall be to confirm that there is no prohibited discharge into the municipal sanitary sewer system.

(B) This inspection requirement may also be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property's sump pump, sewer service lateral, and groundwater drainage system, and upon completion, return an inspection form provided by the city documenting the results of the inspection. All costs

associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

(1) Unless the property owner already has a valid certificate of compliance issued by the city for the property, the owner or owner's representative is required to complete an inspection and obtain a certificate of compliance issued by the city before such property is offered for sale, gifted, or transferred, and before the owner or owner's representative enters into any contract for deed or other transaction changing the party responsible for the property.

(2) A certificate of compliance shall be issued by the city upon successful completion of an inspection. A certificate of compliance shall be valid for 10 years.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.31 CORRECTIONS.

Upon notice that the discharge of clear water on a property is not in compliance with this subchapter, the owner or occupant of the property shall cease from discharging clear water in violation of this subchapter and shall make the necessary repairs and corrections to discharge the clear water in accordance with this subchapter. Acceptable correction is lining or replacing the upper lateral with PVC or other approved piping. Discharge of clear water in compliance with this subchapter shall be completed within 180 days of the date of notice of noncompliance, or as determined by the City Council. A second inspection of the property will be completed after 180 days following the notice of noncompliance.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.32 VIOLATIONS.

(A) A monthly surcharge in an amount duly adopted by the City Council and set forth in the city fee schedule shall be assessed against any property on which clear water is discharged in violation of this subchapter.

(B) The monthly surcharge will be charged on the property's municipal utility billing statement if 1 or more of the following conditions apply:

(1) An inspection as required herein has not been allowed by the property owner or occupant or a certificate of compliance has not been issued by the city within 180 days after the city's notice of inspection;

(2) The property owner or occupant fails to make the sewer line cleanout readily available for the inspection;

(3) The necessary corrections have not been made within the time specified; or

(4) The property owner or occupant reconnects a clear water discharge line to the municipal sanitary sewer system after it has been previously disconnected at the city's or a court's direction.

(C) A surcharge will be assessed for every month during which the property is not in compliance.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.33 TEMPORARY WAIVERS.

(A) The city may grant a temporary waiver from the provisions of this section where strict enforcement would cause a threat of damage or harm to other property, the environment, or public safety because of circumstances unique to the individual property or due to weather conditions. A written request for a temporary waiver must be first submitted to the City Clerk specifying the reasons for the temporary waiver.

(B) If a temporary waiver is granted, the property owner shall pay an additional fee for sewage service charges based on the number of gallons discharged into the city's sanitary sewer system as estimated by a Water Department representative.

(C) The City Council may set conditions to the temporary waiver. The City Council may terminate the temporary waiver upon a failure to comply with any conditions imposed on the temporary waiver. The City Council must give a 5-day written notice of the termination to the property owner and occupant setting forth the reasons for the termination. After expiration or termination of a temporary waiver, the property owner shall comply with the provisions of this subchapter.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.34 APPEALS.

(A) Applications for appeal of any administrative determination made pursuant to this subchapter shall be addressed in writing to the City Clerk within 30 days of the determination.

(B) Applications shall at a minimum identify the property for the appeal is sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the City Council shall make its decision on the matter and send a written copy of such decision to the property owner by mail.

(Ord. 254, passed 12-4-2023; Am. Ord. 257, passed 12-18-2024)

§ 51.98 VIOLATIONS.

(A) Any person found to be violating any provision of this chapter, except § 51.08, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(B) Any person who shall continue any violation beyond the time limit provided for in § 51.10 be guilty of a misdemeanor.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of the violation.

(Ord. 171, passed 9-16-1996) Penalty, see § 10.99

CHAPTER 52: SOLID WASTE

Section

52.01	Definitions
52.02	Mandatory collection of recyclables and garbage
52.03	Littering
52.04	Minimum standards
52.05	Effective date
52.98	Violations

§ 52.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOUSEHOLD HAZARDOUS WASTE. Includes household chemicals that have the potential to pollute the environment. The characteristics of the substance will be considered hazardous if 1 or more of the following could occur: catch fire; become acidic or caustic; toxic, long and short term, from exposure; produces toxic leachate; explosive or reactive; potential to initiate fires.

INDUSTRIAL WASTE. Waste that is generated by business or industry.

LITTERING. Is defined as the placing of refuse, debris, waste, or similar materials, on properties, roadways, and rights-of-way other than that owned by the owner or carrier of the litter, either by deliberate act or by being dropped or blown from a vehicle while being transported due to failure to take proper safeguards to prevent the same.

PUTRESCIBLE MATERIALS OR GARBAGE. Solid waste which is capable of becoming rotten or which may reach foul state of decay or decomposition.

RECYCLABLES. Those materials named by resolution and accepted by the recycling collection service to be separated from the solid waste stream.

RECYCLING COLLECTION SERVICE. Any commercial or business established to collect, transport, process, store, redeem, or dispose of recyclables.

REFUSE. Putrescible and non-putrescible solid wastes, including, but not limited to, garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, market and industrial solid waste, and sewage treatment wastes which are in a dry form.

RESIDENTIAL PROPERTY. All occupied single-family residence, multiple residential homes, apartments, mobile homes, mobile home parks, and residential nursing homes.

SOLID WASTE. Garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, agricultural, operations, residential uses, and community activities, but does not include earthen fill, boulders, rock, and other materials normally handled in construction operations, animal waste used as fertilizer, any permitted materials disposed of as soil amendment, solids or dissolved materials in digestic sewage or other significant pollutants in water resources, such as silt, waste water effluent, dissolved materials, suspended solids in irrigation return flows, or other water pollutants.

SOLID WASTE COLLECTION SERVICE. The collection and transporting of solid waste generated in Fulda by a Murray County licensed hauling service contracted by the city.

TOXIC OR HAZARDOUS WASTES. Substances, whether in liquid, gaseous, or solid form, which when collected, stored, transported, or disposed of, may be acutely toxic to humans, or other animals, or plant life, or be directly damaging to property including, but not limited to, pesticides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar noxious substances.

WHITE GOODS. Includes the household items as stoves, refrigerators, washers, dryers, hot water heaters, furnaces, air conditioners, dishwashers, and freezers.

YARD WASTE. Includes leaves, trees (branches, twigs, stumps, roots, trunks), garden waste, and glass clippings.
(Ord. 156, passed 7-15-1991)

§ 52.02 MANDATORY COLLECTION OF RECYCLABLES AND GARBAGE.

(A) Commencing 8-1-1991 the occupants of each residence and residential unit to include but not limited to: single-family residents, multiple residence unite apartments, mobile homes, mobile home parks and residential nursing homes shall participate in mandatory collection of garbage, refuse, and those recyclable materials designated by Council resolution to be included as a part of this chapter.

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(B) All recyclables material shall be separated from other garbage and refuse and handled in the manner described in the resolution on mandatory recycling.

(C) All non-recyclable material (i.e., mixed municipal solid waste) shall be grouped together and placed in 1 or more containers provided by each residential unit, for mandatory collection by a Murray County permitted and licensed solid waste collection service. Non-recyclable materials shall be distinguished as being identical to the Minnesota Pollution Control Agency's definition of solid waste refuse, putrescibles, and garbage.

(D) The power to establish levy's and assessment fees to procure services for the City of Fulda to ensure the proper management of solid waste and recyclables through mandatory collection, is authorized through this chapter.

(1) The City of Fulda will bill the residential property tenant. In the event that the tenant fails to pay for services the property owner will be assessed on the yearly property tax statement.

(2) A variable rate of household service fees will be described by resolution.

(E) The solid waste collection service contracted by the City of Fulda will be responsible for the collecting of solid waste and will transport the waste to the Murray County Sanitary Landfill or to another Minnesota Pollution Control Agency permitted disposal site as directed by the Murray County Solid Waste Management Plan.

(F) The recycling material collection service contracted by the City of Fulda will be responsible for the collection and disposal of the recyclable material at the Murray County Recycling Center.

(G) Mixed municipal solid waste excludes tires, oil, batteries, white goods, yard waste, household hazardous waste, infectious waste, hazardous waste and industrial waste, as defined by the Minnesota Pollution Control Agency (MPCA). It shall be illegal for any person to put the above items in containers used for collection of mixed municipal solid waste.

(H) All recyclable materials and solid waste placed for collection shall be owned by, and be the responsibility of, the occupants of the residential properties (residents) until they are collected by the contractor. The recyclables materials become the property and responsibility of the contractor upon the contractor's acceptance and collection of the items. Theft of this property will be considered a misdemeanor.

(I) The city has the power to name a party responsible for enforcement of this chapter by resolution.

(Ord. 156, passed 7-15-1991) Penalty, see § 10.99

§ 52.03 LITTERING.

In order to promote public safety, health, peace, and welfare by regulating the hauling and transportation of garbage and other waste materials, the City Council of Fulda, Minnesota, does ordain:

(A) It shall be unlawful for anyone to litter within the city limits of Fulda and vehicles used to transport shall be loaded and moved in such a manner that the litter will not fall, leak, or spill therefrom, and shall be covered to prevent the blowing of material. Where spillage does occur, the materials shall be picked up immediately by the transporter and returned to the vehicle and/or container, and the area properly cleaned; and

(B) All vehicles and containers used for the collection and transportation of toxic or hazardous waste shall be durable, enclosed, and leak proof and shall be constructed, loaded, moved, and unloaded in a safe manner and in compliance with the applicable regulations of federal, state, and local governments and their regulatory agencies.

(Ord. 156, passed 7-15-1991) Penalty, see § 10.99

§ 52.04 MINIMUM STANDARDS.

Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive, than comparable conditions imposed by any other provisions of this chapter or any other applicable law, ordinance, rule, and regulation, the provision which establishes the higher standards for the promotion and protection of the public health, safety, and general welfare shall prevail.

(Ord. 156, passed 7-15-1991)

§ 52.05 EFFECTIVE DATE.

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

(Ord. 156, passed 7-15-1991)

§ 52.98 VIOLATIONS.

Violations of this chapter shall be considered a misdemeanor.

(Ord. 156, passed 7-15-1991) Penalty, see § 10.99

TITLE VII: TRAFFIC CODE

Chapter

**70. GENERAL TRAFFIC
REGULATIONS**

71. PARKING REGULATIONS

**72. BICYCLES, SKATEBOARDS,
AND THE LIKE**

CHAPTER 70: GENERAL TRAFFIC REGULATIONS

Section

General Provisions

70.01	Adoption of state regulations
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General Traffic Regulations

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GENERAL PROVISIONS

§ 70.01 ADOPTION OF STATE REGULATIONS.

(A) Except as otherwise provided in this title, the regulatory and procedural provisions of M.S. Ch. 169, commonly referred to as the Highway Traffic Regulation Act, as it may be amended from time to time, is hereby incorporated herein and adopted by reference including the penalty provisions thereof.

(B) Except as otherwise provided, M.S. §§ 171.01, 171.02, 171.03, 171.08, 171.22, 171.23, and 171.24, as they may be amended from time to time, pertaining to drivers licenses, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

(Ord. 143A, passed 12-5-1990; Ord. 196, passed 1-3-2006)

§ 70.02 RACING CARS; STOCK CARS; JUNK CARS.

(A) *Generally.* Operating, parking, storing, repairing, servicing, and maintaining or racing cars, stock cars, and junk cars shall be regulated as follows.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

JUNK CAR. Any motor vehicle which is not in operable condition, or which is partially dismantled, or which is used for sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling, or salvage of any kind or which is not properly licensed for operation within the State of Minnesota by the State of Minnesota.

PERSON. A natural person, firm, association, partnership, or corporation and any agent of any of the aforesaid.

RACING CAR. Any motor vehicle designed or intended for operation on a speedway, racetrack, or other facility used or designated for high speed contests between 2 or more vehicles or for timing of speed.

STOCK CAR. Motor vehicle of standard design and construction which is modified, adapted, or altered in any manner to increase the speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used or designated for high speed contests between 2 or more vehicles or for timing of speed.

(C) *Parking and storage.* Within the City of Fulda, Minnesota, no person shall park, keep, place, or store, or permit the parking or storage of a stock car, racing car, or junk car on a public street, or ally, or on any private lands or premises which he or she owns, occupies, or controls, unless it shall be within a building or the private premises.

(D) *Repair, service, or maintaining.* Within the City of Fulda, Minnesota, no person shall service, repair, replace parts, or do maintenance work on a stock car, racing car, or junk car on a public street, or on any private land or premises unless it shall be within a building on the private premises.

(E) *Operation.* No person shall drive or operate a stock car or racing car upon the streets and alleys within the limits of the City of Fulda, Minnesota.

(F) *Violations.* Any person violating the provision of this section shall be guilty of a misdemeanor.

(G) *Effective date.* This section shall take effect upon its passage and publication.

(Ord. 111, passed 5-2-1977) Penalty, see § 10.99

§ 70.03 SNOWMOBILES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OPERATE. To ride in or on and control the operation of a snowmobile.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile.

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OWNER. A person, other than a lien holder having the property in or title to a snowmobile, entitled to the use or possession thereof.

PERSON. Includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purpose.

ROADWAY. The portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis, or runners.

STREET OR HIGHWAY. The entire width between boundary lines of any way or place when any part thereof is open to the use of the public as a matter of right, for the purposes of vehicular traffic.

(B) *Operation on streets and highways.* The provisions of M.S. § 84.87, Subd. 1 and 2, as they may be amended from time to time, are hereby adopted and incorporated herein by references the permitted uses and manner of operation of snowmobiles on the streets and highways within the city limits of the City of Fulda, Minnesota.

(C) *Operation; generally.* Except as otherwise specifically permitted and authorized, it is unlawful for any person to operate a snowmobile within the limits of the City of Fulda, Minnesota:

- (1) On a public sidewalk or walkway provided or used for pedestrian travel;
- (2) On private property of another without lawful authority or consent of the owner or occupant;
- (3) On the banks of the lake situated within the limits of the City of Fulda, Minnesota, except the 3 points herein set forth, which shall be permitted access points to the surface of the lake, namely:
 - (a) At the boat landing at the foot of Baltimore Street;
 - (b) At Eichten Park at the West end of 8th Street SE; and
 - (c) At the East end of 6th Street SW.
- (4) During the hours from 10:00 p.m. and 7:00 a.m. on Sunday through Thursday, and during the hours from 12:00 p.m. and 7:00 a.m. on Friday and Saturday;
- (5) On a street at a speed in excess of 20 mph; and/or
- (6) On a street adjacent to a church during the time when a service is being held.

(D) *Lights.* At all times when a snowmobile is being operated in any street in the City of Fulda, the headlight and tail lights shall be turned on and showing.

(E) *Violations.* Any person violating the provisions of this section shall upon conviction be adjudged guilty of a misdemeanor.
(Ord. 99, passed 1-7-1974) Penalty, see § 10.99

§ 70.04 EXHIBITION DRIVING.

(A) No person shall operate any vehicle in the manner as to create or cause unnecessary engine noise, tire squealing, skid or slide upon acceleration or stopping, or in such a manner as to stimulate a race or temporary race, or to cause the vehicle to unnecessarily sway or turn abruptly, or to impede traffic.

(B) Any person who shall violate any of the provisions of this section shall be deemed to be guilty of a misdemeanor.

(C) This section shall be in full force and effect from and after its passage and publication as required by law.

(Ord. 95A, passed 10-5-1970) Penalty, see § 10.99

GENERAL TRAFFIC REGULATIONS

§ 70.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS DISTRICT. The territory contiguous to and including a highway when 50% or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

CROSSWALK. The portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections. Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

MOTOR VEHICLE. Every vehicle that is self-propelled and not deriving its power from overhead wires.

SIDEWALK. The portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

STREET OR HIGHWAY. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway except devices moved by human power or used exclusively upon stationary rails or tracks.

(Ord. 76, passed 9-3-1946)

§ 70.16 SPEED RESTRICTIONS.

(A) No vehicle may be operated on any street or highway at a speed in excess of 30 mph. On any street on which signs are posted establishing a speed limit, no vehicle may be operated at a speed in excess of the posted limit.

(B) The driver of any vehicle shall drive at an approximate reduced speed whenever the reduced speed is required in the exercise of due care under the existing conditions and in view of actual and potential hazards then present. (Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.17 RECKLESS DRIVING.

Any person who drives any vehicle in such a manner as to indicate either a wilful or a wanton disregard for the safety of persons or property is guilty of reckless driving. Any person who shall halt any vehicle upon any street carelessly or heedlessly in disregard for the rights of the safety of others, or in a manner so as to endanger, any person or persons, is guilty of careless driving. (Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.18 STOPPING BEFORE CROSSING SIDEWALKS.

The driver of a vehicle within the business district, emerging from an alley, driveway, or building, shall stop the vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any such alley or driveway. (Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.19 PEDESTRIANS.

The driver of any motor vehicle shall yield the right-of-way to any pedestrian crossing any street within any marked crosswalk or within any unmarked crosswalk within an intersection. Any pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway. (Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.20 STOPPING, STANDING, AND PARKING.

No person shall stop, stand, or park a vehicle, except where necessary to avoid with other traffic or in compliance with the directions of a police officer, in any of the following places:

- (A) On a sidewalk;
- (B) In front of a public or private driveway;
- (C) Within an intersection;

- (D) Within 10 feet of a fire hydrant;
 - (E) In any place designated by a "No Parking" sign or by a solid yellow marking on the curb as a prohibited area;
 - (F) Alongside or opposite any street excavation or obstruction when the stopping, standing, or parking would obstruct traffic;
 - (G) In any manner other than parallel with the curb except in an area parking would obstruct traffic;
 - (H) On St. Paul Street between Front Street and Third Street when any such vehicle is parked there continuously overnight.
- (Ord. 76, passed 9-3-1946; Am. Ord. 79, passed 3-6-1950) Penalty, see § 10.99

§ 70.21 ANGLE PARKING.

In areas designated by appropriate signs or markings on the surface of the street as angle parking areas, no person shall park any vehicle in any other manner than at an angle to the curb, except that trucks may be temporarily parked otherwise in such an area to load or unload freight. In any marked parking area all vehicles shall be parked within the marked zones and shall not be parked across any solid line designating a parking place, except as is herein provided in the case of trucks loading and unloading.

(Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.22 U-TURNS.

U-turns may be made only at intersections of streets. No turn may be made at any intersection at which the turns are prohibited by sign, or at any other than at an intersection.

(Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.23 VIOLATIONS.

Any person violating any of the provisions of this subchapter shall, upon conviction, before a court of competent jurisdiction, be adjudged guilty of a misdemeanor.

(Ord. 76, passed 9-3-1946) Penalty, see § 10.99

§ 70.24 EFFECTIVE DATE.

This subchapter shall be in full force and effect from and after its passage and publication.

(Ord. 76, passed 9-3-1946)

CHAPTER 71: PARKING REGULATIONS

Section

71.01	Definitions
71.02	Time limit parking zones
71.03	Winter parking
71.04	Ticketing and towing violators
71.05	Effective date
71.06	Angle parking
71.99	Penalty

§ 71.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. Every vehicle which is self-propelled and not deriving its power from overhead wires.

STREET OR HIGHWAY. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or using exclusively upon stationary rails or tracks.
(Ord. 175, passed 11-3-1997)

§ 71.02 TIME LIMIT PARKING ZONES.

No person shall stop, stand, or park any vehicle, or permit it to stand on any street, or posted city parking lot, in any part of Fulda for more than 48 hours.
(Ord. 175, passed 11-3-1997) Penalty, see § 71.99

§ 71.03 WINTER PARKING.

(A) Snow removal operation for the City of Fulda will remain in effect November 1 until April 15.

(B) No person shall stop, stand, or park any vehicle or permit it to stand on any street, or posted city parking lot, so as to obstruct the removal of snow from streets during snow removal operations.

(C) No person shall stop, stand, or park any vehicle, or permit it to stand on any posted city parking lot, or street in the downtown area of Fulda (as defined as St. Paul Avenue from Front Street to Third Street, and Second Street

from Lafayette Avenue to Baltimore Avenue, and Third Street from Lafayette Avenue to Baltimore Avenue), between the hours of 2:00 a.m. and 6:00 a.m. (Ord. 175, passed 11-3-1997) Penalty, see § 71.99

§ 71.04 TICKETING AND TOWING VIOLATORS.

When any Street Department personnel find a vehicle in violation of any parking ordinance the Fulda Police Department is thereby authorized to issue a ticket and or tow a vehicle to a convenient garage or other facility or place of safety.

(Ord. 175, passed 11-3-1997)

§ 71.05 EFFECTIVE DATE.

Sections 71.01 through 71.05 shall be effective upon their adoption and publication.

(Ord. 175, passed 11-3-1997)

§ 71.06 ANGLE PARKING.

(A) *Purpose.* The city council finds that the use of angle parking areas within the city may be more safely accomplished by the imposition of certain restrictions in the manner in which vehicles are operated in the vicinity of such parking spaces.

(B) *Application.* The provisions of this section shall apply to those portions of all public streets and ways which are marked for or permit parking on one or both sides thereof.

(C) *U-turns.* No U-turns shall be made by a motor vehicle on any public street or way at a location thereon which is marked for or permits angle parking on one or both sides thereof.

(D) *Entering angle parking space.* No operator of a motor vehicle being driven in a particular lane of traffic shall cross the opposing lane of traffic in order to enter in a parking space adjoining the opposing lane of traffic.

(E) *Leaving angle parking space.* No operator of a motor vehicle which is leaving a parking space shall permit the vehicle to cross over any lane of traffic in so departing, but shall only remove the vehicle into the lane of traffic immediately adjacent to the parking space being vacated, then depart in the direction of traffic for that lane.

(F) *Penalties.* It is a petty misdemeanor for any driver of a motor vehicle to commit an act prohibited in this section.

(Ord. 205, passed 5-5-2008)

§ 71.99 PENALTY.

Unless otherwise noted, any person convicted of violating this chapter shall be guilty of a petty misdemeanor.
(Ord. 175, passed 11-3-1997) Penalty, see § 10.99

CHAPTER 72: BICYCLES, SKATEBOARDS, AND THE LIKE

Section

72.01	Definitions
72.02	Rules of operation
72.03	Equipment
72.04	Use of earphones or headphones prohibited
72.05	Effective date
72.99	Penalty

§ 72.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BICYCLE. Any device propelled by human power, upon which any person may ride having 2 tandem wheels, and any device generally recognized as a bicycle equipped with front or 2 rear tires.

MOTORIZED BICYCLE/SCOOTER. Any bicycle with fully operable pedals which may be propelled by human power or a motor, or both, with a motor of a capacity of less than 50 cubic centimeters piston displacement, and a maximum of 2 brake horsepower, which is capable of a maximum speed or not more than 30 mph on a flat surface with not more than 1% grade in any direction when motor is engaged.

SKATEBOARD. A short, oblong board with 2 wheels at each end, propelled by human power.
(Ord. 149, passed 12-5-1990)

§ 72.02 RULES OF OPERATION.

(A) *Generally.* The following rules of operation shall be observed at all times.

(B) *Rules.*

(1) Every person riding a bicycle and motorized bicycle upon a public roadway shall be granted all the rights and shall be subject to all the duties

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applicable to the driver of a vehicle by state law and traffic ordinances of this city except as to those regulations which by their nature have no application.

(2) A person propelling a bicycle or motorized scooter shall not ride other than upon or astride a permanent and regular seat attached thereto.

(3) No bicycle or scooter shall be used to carry more persons at 1 time than the number for which it is designated and equipped.

(4) No person riding upon any bicycle, skateboard, or scooter shall attach it or themselves to any vehicle upon a roadway.

(5) Every person operating a bicycle upon a public roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or 1 proceeding in the same direction.

(6) Persons riding a bicycle upon a public roadway shall not ride more than 2 abreast, except on paths or roadways set aside for the exclusive use of bicycles. This section does not permit the operation of a motorized bicycle/scooter on a bicycle path or bicycle lane that is reserved for the exclusive use of non-motorized traffic.

(7) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and not use the roadway.

(8) No person shall operate a skateboard, or motorized bicycle/scooter in the 100 and 200 blocks of Saint Paul Avenue, either in the street or on the sidewalks in the City of Fulda.

(Am. Ord. 155, passed 2-19-1991)

(9) No person shall operate a bicycle, skateboard, or motorized bicycle/scooter on the sidewalks in front of any business establishment within the City of Fulda.

(Am. Ord. 155, passed 2-19-1991)

(10) Bicycles may be walked on the sidewalk within the business district and must observe the rights and duties of a pedestrian.

(11) Whenever any person is riding a bicycle upon a sidewalk in a residential district, the person shall yield right-of-way to any pedestrian, and shall give audible sign before overtaking any such pedestrian.

(12) No person shall operate a motorized bicycle/scooter upon a sidewalk at any time, except when the operation is necessary for the most direct access to a roadway from a driveway, alley, or building.

(13) No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least 1 hand on the handle bars.

(14) No person shall operate a bicycle, skateboard, or motorized bicycle/scooter in any manner that would pose a danger to any person or property anywhere within the City of Fulda.

(Ord. 149, passed 12-5-1990) Penalty, see § 72.99

§ 72.03 EQUIPMENT.

(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector, of a type approved by the Commissioner of Highways, on the rear, which is visible from a distance of 100 feet when directly in front of lawful beams.

(B) Every bicycle shall be equipped with a brake which will enable the operator to make the brake wheels skid on dry, level pavement.

(C) A motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles, may be operated during nighttime hours.

(Ord. 149, passed 12-5-1990) Penalty, see § 72.99

§ 72.04 USE OF EARPHONES OR HEADPHONES PROHIBITED.

(A) No person, while riding a bicycle or motorized bicycle/scooter in a public right-of-way, shall wear headphones or earphones which may be used in both ears simultaneously for purposes of receiving or listening to broadcasts or reproductions from radios, tape decks, or other sound producing or transmitting devices.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC RIGHT-OF-WAY. Shall include, without limitation, streets, highways, alleys, sidewalks, footpaths, and parking lots commonly open to the public.

(Ord. 149, passed 12-5-1990) Penalty, see § 72.99

§ 72.05 EFFECTIVE DATE.

This chapter shall be in force and effect from and after its passage, approval, and publication according to law.

(Ord. 149, passed 12-5-1990)

§ 72.99 PENALTY.

Any person violating or convicted of violating any provision of this chapter shall be dealt with in the following manner: Warnings will be issued to first-time violators of this chapter. Persons violating or convicted of violating any provisions of this chapter for a second time shall be guilty of a petty misdemeanor. Persons violating or convicted of violating any provisions of this chapter for a third time shall be guilty of a petty misdemeanor. Persons violating or convicted of violating any provision of this chapter more than 3 times shall be guilty of a misdemeanor. Persons violating any provision of this chapter may

have their bicycle, skateboard, or motorized bicycle/scooter impounded for a period not to exceed 7 days, at the discretion of the arresting officer.
(Ord. 149, passed 12-5-1990) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

Chapter

90. STREETS AND SIDEWALKS

91. ANIMALS

**92. HEALTH AND SAFETY;
NUISANCES**

CHAPTER 90: STREETS AND SIDEWALKS

Section

Sidewalks

90.01	Purpose
90.02	Definitions
90.03	Repairs and improvements
90.04	Repair and construction requirements
90.05	Removal without replacement
90.06	Maintenance
90.07	Effective date
90.99	Penalty

SIDEWALKS

§ 90.01 PURPOSE.

The City of Fulda intends to provide safe pedestrian walkways and alleyways throughout the community, and, in particular, to provide for safe pedestrian traffic to and from schools and school bus stops, and other services to the neighborhood and community.
(Ord. 179, passed 7-10-2000)

§ 90.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEFECTIVE SIDEWALK. Any of the following:

- (1) Vertical separations of 1/2 inch or more;
- (2) Horizontal separations of 1/2 inch or more;
- (3) Holes or depressions of 3 inches or more in diameter and 1/2 inch or more in depth;
- (4) Spalling over 50% of a single 4 foot by 4 foot square or panel of the sidewalk with 1 or more depressions of 1/2 inch or more;
- (5) A single square or panel or sidewalk cracked in such a manner that no part thereof has a piece greater than 1 square foot or is cracked in such a manner that it constitutes a danger or a potential danger to the public;
- (6) A sidewalk with any part thereof missing to the full depth; and/or
- (7) A deviation on the staked and constructed grade of 1/2 inch or more as to any sidewalk newly constructed.

SIDEWALK CONSTRUCTION. Any of the following:

- (1) A sidewalk shall be a monolithic pour of concrete of 4 inches in thickness placed on 2 inches of compacted gravel base, or concrete pavers, of a minimum thickness of 2¼ inch, on 1 inch of sand and 6 inches of compacted gravel base. A paver edging must be used on the sides of a paver sidewalk;
 - (2) All sidewalks shall slope 1/4 inch per foot away from the property line and the profile grade shall not exceed 6%;
 - (3) All sidewalks in the residential district shall be 4 feet in width. All sidewalks in the business district shall be 10 feet in width exclusive of the curb. Exception to these limits may be made in the case of new construction between portions of sidewalk already placed. In that case, the new construction shall be of the same width as the contiguous sidewalk;
 - (4) Sidewalks shall be placed in the public right-of-way against the property line;
 - (5) Joints - expansion joint shall be placed not more than 60 feet on centers for full width of sidewalk and full thickness of slab. Joint material shall be at least 1/2 inch thick and shall be pre-formed. Contraction joints shall be placed not more than 4 feet on center, running the full width of the slab, and cut through to a depth of at least 1/2 inch. Both expansion and contraction joints shall be finished with a 1/2 inch edging tool. Similar expansion joints shall be placed at junction of walks with curbs, or in other cases where natural expansion movement is restrained; and/or
 - (6) Handicapped accessible corners - the slope of the sidewalk shall be at a maximum ratio of 1 inch to 1 foot, meaning that for each inch of curb height, a foot of slope shall be provided. Therefore, a standard 6-inch curb would provide a 6-foot slope from the curb face.
- (Am. Ord. 185, passed 7-14-2003)

SIDEWALK MASTER PLAN. A plan established by resolution of the City Council which includes all sidewalks in the city which the City Council finds necessary or convenient for public pedestrian traffic.
(Ord. 179, passed 7-10-2000)

§ 90.03 REPAIRS AND IMPROVEMENTS.

(A) *Inspection and report.*

(1) The owner of any private property within the city abutting a public alley, private alley, or sidewalk (whether or not the sidewalk is on the Sidewalk Master Plan) shall report any defective, unsafe, or broken sidewalk or unsafe alley to the Street Superintendent.

(2) The Street Superintendent shall cause inspections to be made throughout the city, at the times as are reasonably necessary, to determine whether public sidewalks, public alleys, and private alleys within the city are safe for pedestrians and/or vehicles.

(B) *Barricades.* Whenever any material of any kind is deposited on any alley when sidewalk improvements are being made, or when any sidewalk is in a dangerous condition, it is the duty of all persons having any interest in the property in front of or along which the material may be deposited, or where the dangerous condition exists, to put in conspicuous places at each end of the sidewalk and at each end of any pile of materials deposited in the street, a sufficient number of approved barricades.

(C) *All sidewalks.*

(1) *Duty to repair.* The owner of any private property within the city abutting a sidewalk (whether or not the sidewalk is on the Sidewalk Master Plan) shall keep the sidewalk in repair and safe.

(2) *Repair.*

(a) 1. If the Street Superintendent finds that any sidewalk abutting on private property is unsafe, defective, or in need of repairs, he or she shall cause a notice to be served.

2. The notice shall be served upon the record owner by personal service, or upon the record owner and occupant by registered or certified mail to their last known address if the owner does not reside within the city or cannot be found therein.

3. The notice shall order the owner to have the sidewalk repaired and made safe within 45 days, and state that if the owner fails to do so, the City Council may order the work to be done, that the expense thereof must be paid by the owner, and that if unpaid, it will be made a special assessment against the property concerned.

(b) 1. If the sidewalk is not repaired within 45 days after service of the notice, the Street Superintendent shall report the facts to the City Council.

2. The City Council may, by resolution, order the construction or repairs to be made.

3. If the City Council orders construction or repairs to be made, the Street Superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report the information to the City Clerk-Treasurer.

(3) *Special assessments.* On or before September 1 of each year, the City Clerk-Treasurer shall list the total unpaid charges for each type of repair service against each separate lot or parcel to which they are attributable under this section. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Council may then spread the charges against the property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

(D) *Alleys.*

(1) The owner of any private property within the city abutting a private alley shall keep the alley in repair and safe. In the case of public alleys, the city shall accept responsibility for the repair or replacement of sidewalks.

(2) (a) If the Street Superintendent finds that any private alley abutting on private property is unsafe, defective, or in need of repairs, he or she shall cause a notice to be served.

(b) The notice shall be served upon the record owner by personal service, or upon the record owner and occupant by registered or certified mail to their last known address if the owner does not reside within the city or cannot be found therein.

(c) The notice shall order the owner to have the alley repaired and made safe within 45 days, and state that if the owner fails to do so, the City Council may order the work to be done, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(3) (a) If the private alley is not repaired within 45 days after service of the notice, the Street Superintendent shall report the facts to the City Council.

(b) The City Council, may, by resolution, order the construction or repairs to be made.

(c) If the City Council orders construction or repairs to be made, the Street Superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report the information to the City Clerk-Treasurer.

(4) (a) On or before September 1 of each year, the City Clerk-Treasurer shall list the total unpaid charges for each type of repair service against separate lot or parcel to which they are attributable under this section.

(b) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Council may then spread the charges against the property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other

pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

(Ord. 179, passed 7-10-2000) Penalty, see § 90.99

§ 90.04 REPAIR AND CONSTRUCTION REQUIREMENTS.

(A) *Permits required.*

(1) No person shall make any sidewalk repair or improvement, or repair or improvement to a public or private alley, whether ordered by the city or not, until the person has submitted a plan, has obtained the required permits from the city, and has paid all applicable fees. The fee, if any, for permits, shall be established by resolution of the City Council.

(2) When the requirements of this division (A) have been met and the plan approved, the permit shall be issued, and a copy thereof shall be filed and preserved. The permit shall state when the work is to be commenced and when the work is to be completed.

(B) *Specifications.* All repairs and improvements to sidewalks and alleys, whether undertaken by the owner of the abutting property or by the city, shall be performed under the supervision and inspection of the Street Superintendent and in accordance with the plans and specifications approved by resolution of the City Council and on file in the office of the City Clerk-Treasurer.

(C) *Notice to stop work.*

(1) The Street Superintendent or the Zoning Board may stop work at the site upon written notice served personally, or by registered or certified mail, to the property owner, the property owner's agent, or to the contractor or party doing the work, for any of the following reasons:

(a) Failure to obtain a permit; and/or

(b) Failure to perform work in accordance with the specifications established by this subchapter.

(2) When a property owner, agent of the property owner, contractor, or party performing work receives the notice, the person shall cause the work to stop. Work may resume when a permit is obtained or when the Street Superintendent or his or her designee has confirmed that corrections have been made to conform the work to the required specifications.

(Ord. 179, passed 7-10-2000) Penalty, see § 90.99

§ 90.05 REMOVAL WITHOUT REPLACEMENT.

Removal of a sidewalk designated on the Sidewalk Master Plan, without replacement, shall occur only by the following:

(A) The owner of the abutting property petitions the City Council and the City Council determines by resolution that it is in the interest of the public to remove the sidewalk without replacing it; or

(B) The City Council, on its own motion, seeks the removal of sidewalk without replacement by resolution, and the motion passes by a 4/5 vote.
(Ord. 179, passed 7-10-2000)

§ 90.06 MAINTENANCE.

(A) (1) All snow, ice, dirt, and rubbish remaining on a public sidewalk more than 24 hours after its deposit thereon is a public nuisance.

(2) The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians.

(3) No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon.

(B) If the Street Superintendent finds that any snow, ice, dirt, or rubbish has remained on a public sidewalk more than 24 hours after its deposit thereon, he or she shall cause a notice to be served upon the record owner of the property by personal service, or upon the occupant if the owner does not reside within the city or cannot be found therein, ordering the owner or occupant to have the snow, ice, dirt, or rubbish removed and made safe within 24 hours and stating that if the owner or occupant fails to do so, the Street Superintendent will do so on behalf of the city, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(C) If the snow, ice, dirt, or rubbish is not removed within 24 hours after service of the notice, the Street Superintendent shall cause the snow, ice, dirt, or rubbish to be removed. The Street Superintendent shall keep a record of the total cost of the removal attributable to each lot or parcel of property and report the information to the City Clerk-Treasurer.

(D) On or before September 1 of each year, the city shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this subchapter. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Council may then spread the charges against the property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

(Ord. 179, passed 7-10-2000) Penalty, see § 90.99

§ 90.07 EFFECTIVE DATE.

This subchapter becomes effective upon its passage and publication.
(Ord. 179, passed 7-10-2000)

§ 90.99 PENALTY.

Any person violating any provision of §§ 90.01 *et seq.* is guilty of a misdemeanor.

(Ord. 179, passed 7-10-2000) Penalty, see § 10.99

CHAPTER 91: ANIMALS

Section

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§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Animals commonly accepted as domesticated household pets. Unless otherwise defined, **DOMESTIC ANIMALS** shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM**

ANIMALS shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, **NON-DOMESTIC ANIMALS** shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds, such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets;

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and

(f) Any other animal which is not explicitly listed above, but which can be reasonably defined by the terms in this section, including, but not limited to, bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by any person in charge of the pound for the release of any animal that has been taken to the pound.
(Ord. 218, passed 7-1-2013; Am. Ord. 242, passed 6-1-2020)

§ 91.02 DOGS AND CATS.

(A) *Running at large prohibited.*

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(1) It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat to run at large. Any person who owns, harbors, or keeps a dog or cat and who permits the dog or cat to run at large shall be guilty of a petty misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by, and under the control and direction of, a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with the signs reading "Dogs or Cats Prohibited".

(2) Any person who violates division (A)(1) two or more times in any six month period shall be guilty of a misdemeanor.

(B) *License required.*

(1) All dogs over the age of six months kept, harbored, or maintained by their owner in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk upon payment of the license fee as established by § 32.02, as the section may be amended from time to time. The owner shall state, at the time the application is made for the license and upon forms provided, his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay the City Clerk the license fee every three years, as established by § 32.02, as it may be amended from time to time.

(3) Upon payment of the license fee, as established by § 32.02, as it may be amended from time to time, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see the collar and tag are constantly worn. In case a dog tag is destroyed, a duplicate shall be issued by the City Clerk. A charge shall be made for each duplicate tag in the amount established in § 32.02, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, or a K-9 Officer dog, then no license shall be required.

(5) The funds received by the City Clerk from all dog licenses and metallic tag fees, as established by § 32.02, as it may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of

this chapter including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Vaccination.*

(1) All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for rabies with a live method vaccine.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificates(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

(Ord. 218, passed 7-1-2013; Am. Ord. 242, passed 6-1-2020) Penalty, see § 91.99

§ 91.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this chapter shall have 30 days in which to remove the animal from the city, after which time the city may impound the animal, as provided for in this chapter. An exception shall be made to this prohibition for animals specifically trained for, and actually providing assistance to, the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

Farm animals shall only be kept in an agriculturally-zoned district in the city, or on a residential lot of at least ten acres in size, provided that no animal shelter, such as a barn or shed, is within 300 feet of an adjoining piece of property. Exceptions shall be made to this section for animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition, and permitted urban chickens as allowed in § 91.17.

(Ord. 218, passed 7-1-2013; Am. Ord. 239, passed 6-1-2020)

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided in § 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) below, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined at the veterinary clinic for a period of not less than ten days, at the expense of the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept with humane treatment and sufficient food and water for their comfort unless the animal is a dangerous animal as defined under § 91.11, in which case it shall be kept for seven regular business days, or the times specified in § 91.11, and, except if the animal is a cruelly-treated animal, in which case it shall be kept for ten regular business days unless sooner reclaimed by its owners or keepers, as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of maintenance costs, as provided by the pound, per day, or any part of the day, while the animal is in the pound; and

(2) If a dog is unlicensed, payment of a regular license fee, as established by § 32.02, as that section may be amended from time to time, and a valid certificate of vaccination for rabies shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) above, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to

be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.06 KENNELS.

(A) Definition of *KENNEL*.

(1) The keeping of three to six dogs on the same premises, whether owned by the same person or not, and for whatever purpose, shall constitute a ***KENNEL***; except that a fresh litter of puppies may be kept for a period of three months before the keeping shall be deemed a ***KENNEL***.

(2) In order to maintain a kennel within the city limits, a resident of the premises must first obtain a permit from the city and pay a three year permit fee set by ordinance of the city. As a condition of maintaining a kennel, the city is authorized to biannually inspect the premises to monitor compliance with this chapter and to keep track of the number and condition of the dogs. None of the dogs in a kennel can be a dangerous dog as defined under M.S. § 347.50, as it may be amended from time to time, and/or § 91.11, as it may be amended from time to time.

(B) *Kennel as a nuisance.* Because the keeping of more than six dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation, the keeping of more than six dogs on the premises is hereby declared to be a nuisance. A violation of this section is deemed a misdemeanor.

(C) *Removal of dogs constituting a violation.* Upon violation of this section, the city may remove enough dogs so that the premises are no longer a kennel. The owner of the dog(s) removed by the city shall be liable for the costs incurred by the city for removing the dog(s).

(D) *Location.* A kennel may not be located on the front lot (street side) portion of any property within the city.

(E) *Kennel fees.* A kennel permit fee, as set out in § 32.02, shall be charged and will be required to be paid when an application for a kennel license is submitted to the City Clerk/Administrator. All subsequent kennel permit fees are due every three years from when the original kennel license was acquired. This fee is in lieu of the separate license requirement fee for each dog.
(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.07 NUISANCES.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of

interruption. The barking must also be audible off the owner's or caretaker's premises.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner had knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal, disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property, with the permission of those property owners.

(D) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 91.05.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property if that person is also the owner of the animal, provided that the following conditions exist:

(A) There is an identified complaint other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07(A); the criteria for cruelty set out in § 91.13; or the criteria for an at large animal set out in § 91.01;

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal, or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provide for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.
(Ord. 218, passed 7-1-2013)

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05(C).

(Ord. 218, passed 7-1-2013)

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep, or allow to be kept, on his or her premises, or on the premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this chapter, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be dangerous to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the costs of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased it shall be released to the owner or keeper free of charge.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict, bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control officer or police officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL. An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or
- (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same; the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

POTENTIALLY DANGEROUS ANIMAL. An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalk, or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A **PROPER ENCLOSURE** does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The **ENCLOSURE** shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- (a) Have a minimum overall floor size of 32 square feet;
- (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches; support posts shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches; and

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

UNPROVOKED. The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer or police officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when, unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2) above. When an animal is declared potentially dangerous, the Animal Control Officer or police officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer or police officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1) above; and

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1) above.

(F) *Authority to order destruction.* The Animal Control Officer or police officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer or police officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer or police officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer or police officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control Officer, police officer or City Clerk's office shall be admissible for consideration by the Animal Control Officer or police officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control officer or police officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer or police officer. If the owner does not immediately make the animal available, the Animal Control Officer or police officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* In any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer or police officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.
(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 91.11(C)(3);

(2) Post the front and rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous animal on the property, as specified in M.S. § 347.51, as may be amended from time to time;

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(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51, as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer or police officer shall be registered with the county in which the city is located within 14 days after the date the animal was deemed dangerous and provide satisfactory proof thereof to the Animal Control Officer or police officer.

(7) If the animal is a dog or cat, the animal must be licensed and up to date on rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer or police officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animal(s).* A dangerous animal seized under § 91.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to Animal Control that each of the requirements under § 91.12(B) is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 91.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provision under § 91.11 with the same animal, the animal must be seized by animal patrol or a police officer. The owner may request a hearing as defined in § 91.11(G). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer or police officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the pet is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 91.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 91.11(F), and the owner is liable to the Animal Control for the costs incurred in confining, impounding and disposing of the animal.

(Ord. 218, passed 7-1-2013)

§ 91.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating his or her pet in a humane manner will be subject to the penalties provided in this section.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.14 ENFORCING OFFICER.

The City Council is hereby authorized to appoint an Animal Control Officer or police officer to enforce the provisions of this chapter. In the officer's duty of enforcing the provision of this chapter, he or she may, from time to time, with the consent of the City Council, designate assistants.

(Ord. 218, passed 7-1-2013)

§ 91.15 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

(Ord. 218, passed 7-1-2013)

§ 91.16 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

(Ord. 218, passed 7-1-2013) Penalty, see § 91.99

§ 91.17 URBAN CHICKENS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BROODING. The period of chicken growth when supplemental heat must be provided, due to the bird's inability to generate enough body heat.

CHICKEN. A domesticated bird of the scientific name *Gallus domesticus* that serves as a source of eggs or meat.

COOP. The structure for the keeping or housing of chickens permitted by this section.

FOWL or POULTRY. Other members of the Galliformes order, including turkeys, ducks, geese, pheasants, partridge, and quail.

(B) *Purpose of chickens.* It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding pastime. Therefore, it is the purpose and intent of this section to permit the keeping and maintenance of chicken hens for eggs and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

(C) *Permitting.* Permits shall be issued by the City Clerk. Applications for permits shall be made on forms provided by the Clerk.

(1) A chicken permit shall be valid for three years. No reduction of permit fee shall be made because of expiration of a portion of the permit period time and no refund of any portion of the permit fee shall be made at any time for any purpose. Submission of a site plan or sketch shall be required with the permit.

(2) The chicken permit fee shall be as set by ordinance of the City Council. The permit fee shall be paid at the time of application.

(D) *General permit requirements.* No person shall own, keep, harbor, or have custody of any live chickens without first obtaining a permit from the city, subject to the following conditions:

(1) The owner of the chickens shall live in the dwelling on the property.

(2) The keeping of any poultry besides chickens is prohibited.

(3) All chicken coops and runs must meet the requirements of the building and zoning codes, including electrical permits if applicable.

(4) No person shall keep roosters, or adult male chickens, on any property within the city.

(5) Chickens are specifically limited to the following designated zoning districts: R-1, R-2, or Agricultural.

(6) No more than five chickens shall be housed or kept per household in any area of the city zoned R-1, R-2, or AG.

(7) Permits may be revoked due to cruelty to the chickens, if the chickens become a nuisance, or any violation or non-compliance of this section.

(8) Outdoor slaughtering of chickens in city limits is prohibited.

(9) Chicken fighting shall not be allowed within city limits.

(10) Chickens shall not be housed in a residential house.

(11) Chickens must be confined at all times in a chicken coop or chicken run. Chicken coops and runs shall comply with the following requirements:

(a) Chicken coops must not exceed 30 square feet (by outside dimensions); which is six square feet per chicken or six feet in height. Coops must be elevated with a clear open space of at least 24 inches between the ground and the floor or framing of the coops. Construction shall be adequate to prevent access by rodents;

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- (b) Located in the side or rear yard;
- (c) The shelter shall be situated closer to the chicken owner's dwelling than to any of the neighboring dwellings;
- (d) Any mobile coop or rolling coop must meet all of the required setbacks at all times;
- (e) Meet the setback of at least 25 feet from any residential dwelling on any adjacent lot and at least ten feet from the property lines; and
- (f) Chicken runs must not exceed 50 square feet; which is ten square feet per chicken or six feet in height, and may be enclosed with wood or woven wire;

(12) All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surroundings must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property.

(13) All food shall be stored in enclosed, rodent-proof containers.

(14) Dead chickens shall be disposed of according to the Minnesota Board of Animal Health rules, which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.

(E) *Running at large.* No owner of any chicken, whether kept, harbored, or maintained within or without the city, shall permit or suffer such chicken to run or move at large at any time within the city. For the purpose of this section, every such chicken at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending chicken escaped or is otherwise at large without the permission or sufferance of its owner.

(F) *Enforcement.*

(1) *Warning of violation.* The animal control officer, police officer, or other official of the city, is authorized to issue a written notice of violation of any provisions(s) of this section, therein stating that a citation may be issued if the violation continues.

(2) *Issuance of citations.* Any police officer or any other authorized representative of the law may issue a citation to any person, firm, or entity for any alleged violations of this section and any other ordinance or statute which provides the basis for prosecution of violations of this section. Nothing within this section shall be construed to limit the authority of police officers to enforce any provisions of this section or related statutes or ordinances. The animal control officer, police officer, or other official of the city, is authorized to issue a citation to any person, group, or organization for any alleged violation of this section as often as each day the violation persists.

(3) Unless otherwise specified, any person violating the provisions of this section shall be guilty of a petty misdemeanor.
(Ord. 239, passed 6-1-2020)

Cross reference:

Urban chicken permit fee, see Ch. 32, App. A

§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed, or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 91.02(A)(1), 91.07, 91.13 and 91.14 are petty misdemeanors, punishable as provided in § 10.99.
(Ord. 218, passed 7-1-2013; Am. Ord. 242, passed 6-1-2020)

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

Section

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NUISANCES

§ 92.01 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
 - (B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
 - (C) Is guilty of any other act or omission declared by law or §§ 92.02, 92.03, or 92.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
- Penalty, see § 10.99

§ 92.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

- (B) All diseased animals running at large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse or other debris;

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(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds, as defined by M.S. § 18.771, as it may be amended from time to time, and designated as noxious weeds by the Commissioner of the Minnesota Department of Agriculture, upon public or private property;

(I) Any weeds or grass growing upon any lot or parcel of land of a height greater than six inches and any weeds or grass that have been permitted to go to seed;

(1) When any person violates this division (I), the Chief of Police or his or her designee shall notify the person in writing of the violation. The notification shall provide that the person shall be required to mow the offending property within one week of the date of the notification. If, after one week, the property has not been mowed, the city shall contract the property to be mowed at the owner's expense. The cost of mowing the property shall be assessed against the owner's property taxes at the contracted rate. An additional administrative fee of \$50 shall also be assessed to the owner's property taxes.

(2) Any person who violates this division (I) a second time within any 12-month period is guilty of a petty misdemeanor.

(3) Any person who violates this division (I) on more than two occasions within any 12-month period is guilty of a misdemeanor.

(J) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(K) All public exposure of people having a contagious disease; and

(L) Any offensive trade or business as defined by statute not operating under local license.

(Am. Ord. 244, passed 8-3-2020) Penalty, see § 10.99

§ 92.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Penalty, see § 10.99

§ 92.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as it may be amended from time to time, which is hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;

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- (I) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (M) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;
- (N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (O) Wastewater cast upon or permitted to flow upon streets or other public properties;
- (P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;
- (Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (S) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- (T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (U) All other conditions or things which are likely to cause injury to the person or property of anyone;
- (V) (1) *Noises prohibited.*
 - (a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.
 - (b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
 - (c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.*

No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.*

No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.*

No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.*

No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.*

No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.*

The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(W) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and 1 footcandle when abutting any commercial or industrial parcel; and

(X) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is

located when abutting any residential parcel and 1 footcandle when abutting any commercial or industrial parcel.

Penalty, see § 10.99

§ 92.05 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Prevents the full use of residential streets for residential parking;
- (4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;
- (5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and
- (6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

- (1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.
- (2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
- (3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements.
 - (a) No more than 4 vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
 - (b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.
 - (c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

Penalty, see § 10.99

§ 92.06 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subdivision 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Penalty, see § 10.99

§ 92.07 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

- (1) Are unsightly;
- (2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and
- (3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence, or other structure is a public nuisance if it does not comply with the following requirements.

- (1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
- (2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
 - (a) Any 1 wall or other flat surface; or
 - (b) All door and window moldings, eaves, gutters, and similar projections on any 1 side or surface.
- (3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.
Penalty, see § 10.99

§ 92.08 DUTIES OF CITY OFFICERS.

For purposes of §§ 92.08 and 92.09, the Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

§ 92.09 ABATEMENT.

(A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown,

or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety. Penalty, see § 10.99

§ 92.10 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk-Treasurer or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk-Treasurer.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

OPEN BURNING

§ 92.25 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS.

The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a **RECREATIONAL FIRE** as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as **OPEN BURNING**.

RECREATIONAL FIRE. A fire set with approved starter fuel no more than 3 feet in height, contained within the border of a **RECREATIONAL FIRE SITE** using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health, or safety hazards will not be created. No more than 1 recreational fire is allowed on any property at 1 time.

RECREATIONAL FIRE SITE. An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a **RECREATION FIRE SITE** as defined herein. **RECREATIONAL FIRE SITES** shall not be located closer than 25 feet to any structure.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, presto logs, charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Clean pallets may be used for recreational fires when cut into 3-foot lengths.

§ 92.26 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.

(D) No person shall conduct, cause, or permit open burning of any leaves or grass clippings.

Penalty, see § 10.99

§ 92.27 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 92.25.

Penalty, see § 10.99

§ 92.28 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means;

(2) Ground thawing for utility repair and construction;

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading, or other alternative methods are not practical;

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives; and/or

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal, or other alternative disposal methods are not practical.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.

Penalty, see § 10.99

§ 92.29 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee in an amount set by Council from time to time.

Penalty, see § 10.99

§ 92.30 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

§ 92.31 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative, or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 10.99

§ 92.32 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 10.99

§ 92.33 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of

the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

§ 92.34 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.
Penalty, see § 10.99

§ 92.35 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

§ 92.36 RULES FOR PUBLIC USE OF THE FULDA BURN SITE AND COMPOST AREA.

(A) (1) Effective January 1, 2021, any owner of property within the boundaries of the city may deposit or cause to be deposited the following items generated by the cleanup of said property at the burn site and compost area as follows:

- (a) Grass, weeds, leaves, garden waste and other compostable items that are not contained in bags in the compost area only;
- (b) Trees, branches and brush in an area separately marked and designated for the deposit thereof; and
- (c) Concrete, if the deposit is approved and a fee is paid to City Hall of \$10 per cubic yard.

(2) No other garbage, trash, rubbish or refuse of any kind whatsoever may be deposited in the burn site or compost area.

(B) Effective January 1, 2021, any owner of property outside of the boundaries of the city, within a one mile radius, who has applied for and paid a yearly fee of \$30 for a special permit issued by the City Clerk, will be permitted use of the Fulda burn site and compost area.

(C) *Penalty.*

(1) Effective January 1, 2021, a violation of this section is a petty misdemeanor with a fine of \$300.

(2) Effective January 1, 2021, a second or subsequent violation of this section within any 12-month period is a misdemeanor with a fine of \$1,000.

(Ord. 245, passed 9-8-2020, effective 1-1-2021)

TREES

§ 92.50 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, lake shoreline, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, boulevards, within the city.

TREE SIZES.

(1) **SMALL TREE.** Any plant material that will grow to a height of 30 feet.

(2) **MEDIUM TREE.** Any plant material that will grow to a height of 50 feet.

(3) **LARGE TREE.** Any plant material that will grow to a height of over 50 feet.

(Ord. 178, passed 12-6-1999)

§ 92.51 ESTABLISHMENT OF CITY TREE BOARD.

There is hereby created and established a City Tree Board for the City of Fulda, which Board shall consist of the City Council and the Street Superintendent.

(Ord. 178, passed 12-6-1999)

§ 92.52 STREET TREES SPECIES TO BE PLANTED.

No species may be planted on public property within the City of Fulda without a tree planting permit (obtained at City Clerk-Treasurer's office) and the prior permission of the Street Superintendent. The Street Superintendent shall review all request for planting to assure that the species are appropriate. The Street Superintendent shall submit a written report yearly to the Tree Board on all trees removed and trees planted.

(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.53 SPACING AND LOCATION OF STREET TREES.

(A) *Spacing.* The spacing of street trees shall be in accordance with 3 species size classes provided in this subchapter, and no trees may be planted closer together than as follows: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet.

(B) *Location.* The distance trees may be planted from curbs or curblines and sidewalks shall be in accordance with the tree species size classes listed in § 92.50, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 3 feet; medium trees, 3 feet; and large trees, 4 feet.

(C) *Corners, fireplugs, and driveways.* No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 15 feet to any fireplug, nor 10 feet from any driveway.

(D) *Utilities.* No street trees other than those defined as small trees in § 92.50 may be planted under, or within 10 feet of, any overhead utility wire; or over or within 10 lateral feet of any underground water line, sewer line, transmission lines, or other utility.

(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.54 PUBLIC TREE CARE.

(A) *Care of street trees.*

(1) The City of Fulda shall have the right to plant, prune, maintain, and remove trees, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure the public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(2) For trees along public shorelines, see Ordinance #157, Subdivision G.[c].1. Vegetation Alterations.

(3) No other planting may be done without consent of the Tree Board.

(B) *Removal of trees endangering utilities or other public improvements.*

(1) The Street Superintendent in consultation with the Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvement, or is affected with any injurious fungus, insects, or other pest.

(2) Every tree overhanging any street or right-of-way within the city shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of at least 8 feet above the street or sidewalk.

(3) Dead, diseased, or dangerous trees, or broken or decayed limbs which endanger the safety of the public shall be removed.

(4) Trees that are removed from public property with a stump diameter greater than 3 inches shall be stumped by either excavating or grinding.

(5) Stumping shall be accomplished as soon as possible, weather permitting, holes created by stumping shall be filled with black dirt. If a stump is ground out wood grindings shall be removed from the site.

(6) Utility locates shall be acquired prior to stumping to avoid potential damage to utilities.

(C) *Trees on private property.*

(1) The City Council shall have the authority to order the trimming, treatment, and removal of trees, and shrubs upon private property when the action is necessary to public safety or to prevent the spread of disease or insect to trees, shrubs, or plants located on public property.

(2) Any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement, shall be so trimmed by the owner of the real property upon which the same is located, so that there is a clear height of at least 8 feet over that portion of the easement that is used for vehicular traffic and over that portion of the easement used for pedestrian travel; and the person shall remove the dead or diseased branches or stubs of trees which are or may become hazardous the public use of the easement.

(3) Any trees obstructing traffic control signs or devices from the view of the pedestrian or motorist shall be pruned to a height established by the Street Superintendent to insure proper safety for motorist or pedestrians.

(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.55 TREE TOPPING.

It shall be an unlawful practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property without authorization from the Tree Board. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown, to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or obstruction where other pruning practices are impractical may be exempted from this subchapter at the determination of the Street Superintendent.

(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.56 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city in accordance with § 92.58.

(Ord. 178, passed 12-6-1999)

§ 92.57 DESTRUCTION OF TREES ON PUBLIC PROPERTY.

It shall be unlawful for any person to remove, alter, or destroy any street tree or park tree without the prior authorization of the City of Fulda.
(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.58 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh)*;

(2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 92.08 and 92.09.

(C) *Record of costs.* The City Clerk-Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) *Unpaid charges.* On or before September 1 of each year, the City Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 10.99

§ 92.59 VIOLATIONS.

Any person, firm, or corporation who violates any provision of this subchapter shall be guilty of a misdemeanor.

(Ord. 178, passed 12-6-1999) Penalty, see § 10.99

§ 92.60 EFFECTIVE DATE.

This subchapter is effective from and after its passage and publication.
(Ord. 178, passed 12-6-1999)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. SEXUALLY-ORIENTED
BUSINESSES**
- 112. TOBACCO REGULATIONS**
- 113. PEDDLERS AND SOLICITORS**
- 114. GENERAL LICENSING**

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

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- 110.02 City may be more restrictive than state law
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- 110.04 Nudity on the premises of licensed establishments prohibited
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GENERAL PROVISIONS

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

§ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

§ 110.03 DEFINITIONS.

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR. As used in this chapter, without modification by the words intoxicating or 3.2% malt, includes both intoxicating liquor and 3.2% malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer

orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a **RESTAURANT** as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a **SMALL ESTABLISHMENT**, **MEDIUM ESTABLISHMENT** or **LARGE ESTABLISHMENT** as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a **RESTAURANT** for purposes of this chapter unless it meets the definitions of **SMALL ESTABLISHMENT**, **MEDIUM ESTABLISHMENT** or **LARGE ESTABLISHMENT**.

§ 110.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of § 110.99(B).

Penalty, see § 110.99

§ 110.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place

other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Penalty, see § 110.99

LICENSING

§ 110.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

§ 110.21 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of 1 year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

§ 110.22 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 110.20.

(A) 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2% malt liquor off-sale license.

(C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 110.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 110.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 110.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 110.23, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least 3 years. No license shall be for longer than 4 consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any 1 organization in 1 calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at 1 time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 110.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 110.23 shall not exceed 1/2 of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

(J) One-day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 110.23 shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

§ 110.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish a fee from time to time. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

§ 110.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

§ 110.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with 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, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.
Penalty, see § 110.99

§ 110.26 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

§ 110.27 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

§ 110.28 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see § 110.99

§ 110.29 INVESTIGATION.

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

§ 110.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial

investigations. 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 sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

§ 110.31 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than 1 license shall be directly or indirectly issued within the city to any 1 person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

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

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

Penalty, see § 110.99

§ 110.32 CONDITIONS OF LICENSE.

The failure of a licensee to meet any 1 of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises 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) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct

compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

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

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

Penalty, see § 110.99

§ 110.33 HOURS AND DAYS OF SALE.

(A) No sale of intoxicating liquor or 3.2% malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. Monday through Saturday. Nor shall any sale of intoxicating liquor or 3.2% malt liquor be made on Sunday between the hours of 1:00 a.m. and 10:00 a.m.

(Ord. 167, passed 4-3-1995; Am. Ord. 187, passed 10-6-2003)

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Penalty, see § 110.99

§ 110.34 MINORS ON PREMISES.

No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

Penalty, see § 110.99

§ 110.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
Penalty, see § 110.99

§ 110.36 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 110.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any 3-year period, at least 1-day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any 3-year period, at least 3 consecutive days' suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any 3-year period, at least 7 consecutive days' suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any 3-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law

without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy 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 of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within 10 days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 110.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Penalty, see § 110.99

§ 110.99 PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any 3-year period, \$500.
- (2) For the second violation within any 3-year period, \$1,000.
- (3) For the third and subsequent violations within any 3-year period, \$2,000.

(C) The term violation as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding 3-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

CHAPTER 111: SEXUALLY-ORIENTED BUSINESSES

Section

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LICENSING AND REGULATION

§ 111.01 FINDINGS.

(A) The City of Fulda, Minnesota, (the city) has reviewed and analyzed numerous studies, reports, articles, judicial decisions, and the experience and legislative findings of other cities around the country concerning the impacts or secondary effects of sexually-oriented businesses and the sale, distribution, and display of sexually-oriented materials (collectively, sexually-oriented business activities) on the areas in which the activities are located or take place.

(B) Sexually-oriented business activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement, and public health services.

(C) Sexually-oriented business activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of the neighborhoods and the housing located there, and can inhibit the proper maintenance and growth of the neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents, and reducing the value of property in the areas.

(D) Sexually-oriented business activities can undermine the stability of other established business and commercial uses in the areas in which sexually-oriented business activities are located or take place and can cause or contribute significantly to the deterioration of the other business and commercial uses, thereby causing or contributing to a decline in the uses, and inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

(E) Sexually-oriented business activities can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playground, forest preserves, and other public recreational areas, can interfere with or even destroyed the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and some more activities.

(F) The presence of sexually-oriented business activities is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which the activities occur or take place is in decline and deteriorating, a perception that can quickly lead to the decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of the decline and deterioration.

(G) The exterior appearance, including signage, of sexually-oriented business activities can have an adverse impact on young people and students, can contribute to the decline in property values associated with sexually-oriented business activities, and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of sexually-oriented business activities on the areas in which the activities are located or take place.

(H) The city has the power and authority to adopt and enforce the licensing regulations established in this subchapter pursuant to:

(1) Its general police powers to protect the public health, safety, morals, and general public welfare; and

(2) All other applicable provisions of law.

(Ord. 183, passed 3-3-2003)

§ 111.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Means:

(1) A commercial establishment which, as 1 of its principal purposes, offers for sale or rental for any form of consideration any 1 or more of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and/or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as, adult bookstore, adult novelty store, or adult video store. The other business purposes will not serve to exempt the commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as 1 of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(3) Notwithstanding the foregoing, a commercial establishment which offers for sale or rental any of the items listed in division (1)(a) above will not be considered to have as 1 of its principal business purposes the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, provided all of the following conditions are met:

(a) Total gross revenues from the sale or rental any of the items listed in division (1)(a) above does not exceed 10% of the commercial establishment's gross revenue;

(b) Total gross square footage of display space and stock area devoted to the sale or rental any of the items listed in division (1)(a) above does not exceed 10% of the commercial establishment's total square footage;

(c) Display of the any of the items listed in division (1)(a) is in a separate room or area restricted only to persons 18 years old or older and is closely monitored by management and/or employees of the commercial

establishment to ensure that no individual under the age of 18 enters the room or area where the items listed in division (1)(a) above are displayed or stored;

(d) No electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained on the premises of the establishment to show images of items listed in division (1)(a) above to any customers or potential customers of the commercial establishment; and

(e) Only employees or management of the commercial establishment who are 18 years old or older are permitted to enter the area where the items listed in division (1)(a) above are stored, processed, or displayed for customers or potential customers of the commercial establishment.

ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nude;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL. A hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT. Includes any of the following:

- (1) The opening or commencement of any sexually-oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
- (3) The additions of any sexually-oriented business to any other existing sexually-oriented business; or
- (4) The relocation of any sexually-oriented business.

LICENSEE. A person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

NUDE MODEL STUDIO shall not include a proprietary school licensed by the State of Minnesota or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
- (2) Where in order to participate in a class a student must enroll at least 3 days in advance of the class; and
- (3) Where no more than 1 nude or semi-nude model is on the premises at any 1 time.

NUDITY or A STATE OF NUDITY. The showing of the human male or female genitals, pubic area, vulva, anus with less than a fully opaque covering or the showing of the covered male genitals in a discernibly turgid state.

PERSON. An individual, proprietorship, partnership, corporation, association, or other legal entity.

SEMI-NUDE or IN A SEMI-NUDE CONDITION. The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as 1 of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nude.

SEXUALLY-ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. Specified anatomical areas means:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic area, vulva, or anus.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses: any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

(1) Criminal Code, M.S. §§ 609.293 through 609.365, as they may be amended from time to time;

(2) Criminal Code, M.S. §§ 617.23 through 617.296, as they may be amended from time to time; and/or

(3) Criminal Code, M.S. §§ 152.01 through 152.21, as they may be amended from time to time.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(1) Fondling or other erotic touching of human genitals, pubic region, or anus;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated;

(4) Human genitals in a state of sexual stimulation, arousal, or tumescence;

(5) Excretory functions as part of or in connection with any of the activities set forth in divisions (1), (2), (3), or (4) above; and/or

(6) Bestiality.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY-ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this subchapter takes effect.

TRANSFER OF OWNERSHIP OR CONTROL OF A

SEXUALLY-ORIENTED BUSINESS. Includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; and/or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 183, passed 3-3-2003)

§ 111.03 LICENSE REQUIRED.

(A) It is unlawful for any person to operate a sexually-oriented business without a valid sexually-oriented business license issued by the city.

(B) An application for a license must be made on a form provided by the city.

(C) All applicants must be qualified according to the provisions of this subchapter. The application may request and the applicant shall provide the information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this subchapter.

(D) If a person who wishes to operate a sexually-oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually-oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

(b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors, and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process; and

(d) The name of the owner of the property where to be located; if a corporation, then the names of the principal owners of corporation.

(2) If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant; he or she must state the sexually-oriented business's fictitious name and submit the required registration documents;

(3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this subchapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each;

(4) Whether the applicant, or a person residing with the applicant, has had a previous license under this subchapter or other similar sexually-oriented business articles from another city or county denied, suspended, or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is licensed under this subchapter whose license has previously been denied, suspended, or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended, or revoked as well as the date of denial, suspension, or revocation;

(5) Whether the applicant or a person residing with the applicant holds any other licenses under this subchapter or other similar sexually-oriented business article from another city or county and, if so, the names and locations of the other licensed businesses;

(6) The location of the proposed sexually-oriented business, including a legal description of the property, street address, and telephone number(s), if any;

(7) The applicant's mailing address and residential address;

(8) The applicant's driver's license number, social security number, and/or his or her state or federally issued tax identification number;

(9) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches;

(10) A straight-line drawing prepared within 30 days prior to application depicting the property lines and the structures containing any existing sexually-oriented businesses within 1,000 feet of the property to be licensed; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 500 feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the building inspector for accuracy. In the event of a dispute between the applicant and the city as to the accuracy of the drawing, the building inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor; and

(11) Copy of lease and all financing documents; all business related contracts for supply of materials and consulting management.
(Ord. 183, passed 3-3-2003) Penalty, see § 10.99

§ 111.04 ISSUANCE OF LICENSE.

(A) Upon the filing of the application for a sexually-oriented business license, the application shall be referred to the appropriate city departments for an investigation to be made on the information as is contained in the application. The application process shall be completed within 60 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that 1 or more of the following findings is true.

(1) An applicant is under 18 years of age.

(2) An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business.

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually-oriented business within the preceding 12 months or whose license to operate a sexually-oriented business has been revoked within the preceding 12 months.

(5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this subchapter.

(6) The premises to be used for the sexually-oriented business have not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.

(7) The license fee required by this subchapter has not been paid.

(8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this subchapter.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually-oriented business. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that they may be easily read at any time.

(C) The Health Department, Fire Department, and the Building Official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

(D) Every application for a sexually-oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$1,000 nonrefundable application and investigation fee.

(E) In addition to the application and investigation fee required above, every sexually-oriented business that is granted a license (new or renewal) shall pay to the city an annual nonrefundable license fee of \$1,000 within 30 days of license issuance or renewal.

(F) All license applications and fees shall be submitted to the City Clerk-Treasurer.

(Ord. 183, passed 3-3-2003)

§ 111.05 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other city departments or agencies to inspect the premises of a sexually-oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) A person who operates a sexually-oriented business or his or her agent or employee commits a violation of this subchapter if he or she refuses to permit the lawful inspection of the premises at any time it is open for business. (Ord. 183, passed 3-3-2003) Penalty, see § 10.99

§ 111.06 EXPIRATION OF LICENSE.

(A) Each license shall expire 1 year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date.

(B) When the city denies renewal of a license, the applicant shall not be issued a license for 1 year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final. (Ord. 183, passed 3-3-2003)

§ 111.07 REGULATION OF SEXUALLY-ORIENTED BUSINESSES.

(A) All licensed sexually-oriented businesses shall comply with the provisions of this subchapter, all other applicable city articles, and all other applicable federal, state, and local laws.

(B) (1) No sexually-oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located.

(2) No portion of the exterior of a sexually-oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein.

(3) This division (B) shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

- (C) (1) All signs for sexually-oriented businesses shall be flat wall signs.
- (2) The maximum allowable sign area shall be 1 square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet.
- (3) The maximum number of signs shall be 1 per lot frontage.
- (4) Signs otherwise permitted pursuant to this subchapter shall contain only the name of the sexually-oriented business and/or the specific type of sexually-oriented business conducted on the licensed premises.
- (5) Temporary signage shall not be permitted in connection with any sexually-oriented business.
- (D) No sexually-oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 10:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.
- (E) A person commits a violation of this chapter if the person knowingly allows a person under the age of 18 years on the premises of a sexually-oriented business.
- (Ord. 183, passed 3-3-2003) Penalty, see § 10.99

§ 111.08 SUSPENSION; REVOCATION.

- (A) The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:
- (1) Violated or is not in compliance with any section of this subchapter; and/or
- (2) Refused to allow an inspection of the sexually-oriented business premises as authorized by this subchapter.
- (B) The city shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.
- (C) The city shall revoke a license if it determines that:
- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) A licensee has knowingly allowed prostitution on the premises;
- (4) A licensee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;
- (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
- (6) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.
- (D) When the city revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued a sexually-oriented business license

for 1 year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(E) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of the administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

(Ord. 183, passed 3-3-2003)

§ 111.09 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 183, passed 3-3-2003)

LOCATION

§ 111.20 FINDINGS.

(A) The City of Fulda, Minnesota, (the city) has reviewed and analyzed numerous studies, reports, articles, judicial decisions, and the experience and legislative findings of other cities around the country concerning the impacts or secondary effects of sexually-oriented businesses and the sale, distribution, and display of sexually-oriented materials (collectively, sexually-oriented business activities) on the areas in which the activities are located or take place.

(B) Sexually-oriented business activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement, and public health services.

(C) Sexually-oriented business activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of the neighborhoods and the housing located there and, can inhibit the proper maintenance and growth of the neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in the areas.

(D) Sexually-oriented business activities can undermine the stability of other established business and commercial uses in the areas in which sexually-oriented business activities are located or take place and can cause or contribute significantly to the deterioration of the other business and commercial

uses, thereby causing or contributing to a decline in the uses, and inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

(E) Sexually-oriented business activities can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playground, forest preserves, and other public recreational areas, can interfere with or even destroyed the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and some more activities.

(F) The presence of sexually-oriented business activities is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which the activities occur or take place is a decline and deteriorating, a perception that can quickly lead to the decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of the decline and deterioration.

(G) The exterior appearance, including signage, of sexually-oriented business activities can have an adverse impact on young people and students, can contribute to the decline in property values associated with sexually-oriented business activities, and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of sexually-oriented business activities on the areas in which the activities are located or take place.

(H) The city has the power and authority to adopt and enforce the zoning regulations established in this subchapter pursuant to:

(1) Its general police powers to protect the public health, safety, morals, and general public welfare; and

(2) All other applicable provisions of law.

(Ord. 184, passed 3-3-2003)

§ 111.21 DEFINITIONS.

A **SEXUALLY-ORIENTED BUSINESS** under this section shall be defined as provided for in §§ 111.01 *et seq.* All terms defined in §§ 111.01 *et seq.* are incorporated into this section as if fully set forth herein.

(Ord. 184, passed 3-3-2003)

§ 111.22 AS CONDITIONAL USE.

Sexually-oriented businesses shall be considered conditional uses and may be permitted only within qualifying areas of the B-2 community business district and I-2 industrial district.

(Ord. 184, passed 3-3-2003)

§ 111.23 LICENSE.

(A) No sexually-oriented business may be granted a conditional use permit under this section unless it has applied for and received a license pursuant to §§ 111.01 *et seq.*

(B) Application for the sexually-oriented business license and a conditional use permit may happen concurrently or a conditional use permit may be granted under this section subject to the applicant receiving a license pursuant to §§ 111.01 *et seq.*

(C) An applicant for a conditional use permit under this section shall also include a copy of the application for the license under §§ 111.01 *et seq.* with the application under this subchapter.

(Ord. 184, passed 3-3-2003)

§ 111.24 LOCATION.

No sexually-oriented business may be located or operated within 500 feet of:

(A) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

(B) A public or private educational facility, including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(C) A boundary of a residential district as defined in the city zoning code;

(D) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(E) A public theater;

(F) A shopping center; or

(G) An airport.

(Ord. 184, passed 3-3-2003) Penalty, see § 10.99

§ 111.25 LOCATION NEAR OTHER SEXUALLY-ORIENTED BUSINESSES.

(A) The operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business may not occur within 1,000 feet of another sexually-oriented business.

(B) In addition, there shall not be more than 1 sexually-oriented business within a block front even if the block is greater than 1,000 feet in length. (Ord. 184, passed 3-3-2003) Penalty, see § 10.99

§ 111.26 MULTIPLE USES OR ENLARGEMENT OF USES.

The operation, establishment, or maintenance of more than 1 sexually-oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually-oriented business in any building, structure, or portion thereof containing another sexually-oriented business, is prohibited.

(Ord. 184, passed 3-3-2003) Penalty, see § 10.99

§ 111.27 MEASUREMENT FROM CERTAIN USES.

(A) For the purpose of this subchapter, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a use listed in this subchapter.

(B) Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(C) The distance shall be measured across property lines, regardless of ownership of the property.

(Ord. 184, passed 3-3-2003)

§ 111.28 MEASUREMENT BETWEEN SEXUALLY-ORIENTED BUSINESSES.

For purposes of § 111.25, the distance between any 2 sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(Ord. 184, passed 3-3-2003)

§ 111.29 NONCONFORMING USE.

(A) Any sexually-oriented business lawfully operating on 1-1-2003, that is, in violation of this subchapter, shall be deemed a nonconforming use.

(B) The nonconforming use will be permitted to continue until terminated for any reason or voluntarily discontinued for a period of 30 days or more.

(C) The nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(D) If 2 or more sexually-oriented businesses are within 1,000 feet of 1 another and otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(Ord. 184, passed 3-3-2003) Penalty, see § 10.99

§ 111.30 LAWFUL OPERATION.

(A) A sexually-oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the conditional use permit under this section, of a use listed in § 111.24 within 1,000 feet of the sexually-oriented business.

(B) This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

(Ord. 184, passed 3-3-2003)

CHAPTER 112: TOBACCO REGULATIONS

Section

112.01	License
112.02	Sales prohibited to minors
112.03	Administrative penalties
112.04	Self-service sales
112.05	Vending machine sales
112.06	Compliance checks
112.07	Effective date

§ 112.01 LICENSE.

(A) (1) No person shall keep for retail sale, sell at retail, or otherwise dispose of any tobacco product at any place in the city without first obtaining a license from the city.

(2) is defined as and includes: cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other

smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

(B) The annual license fee for a retail tobacco license shall be \$24 per year. All retail tobacco license shall be valid for 1 calendar year from the date that the license is issued.

(C) Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

(Ord. 176, passed 12-1-1997) Penalty, see § 10.99

§ 112.02 SALES PROHIBITED TO MINORS.

(A) No person shall sell or offer to sell any tobacco or tobacco product to any person under 18 years of age.

(B) An individual who sells tobacco or tobacco products must be 18 years of age or must be under the direct supervision of an individual 18 years of age or older.

(Ord. 176, passed 12-1-1997) Penalty, see § 10.99

§ 112.03 ADMINISTRATIVE PENALTIES.

(A) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed by the licensee's authority to sell tobacco at that location must be suspended for not less than 7 days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing.

(B) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing.

(C) It is an affirmative defense to the charge of selling tobacco to a person under the age of 18 years in violation of this chapter that the licensee or individual making the sale relied in good faith upon proof of age as follows:

(1) A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States Department of Defense; or

(3) In the case of a foreign national, from a nation other than Canada, by a valid passport.

(Ord. 176, passed 12-1-1997) Penalty, see § 10.99

§ 112.04 SELF-SERVICE SALES.

(A) No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

(B) Cartons and other multipack units may be offered and sold through open displays accessible to the public.

(C) Division (B) above will expire upon the effective date and implementation of 21 C.F.R. pt. 897.16(c), as it may be amended from time to time.

(D) The self-service restriction described in this section shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

(Ord. 176, passed 12-1-1997) Penalty, see § 10.99

§ 112.05 VENDING MACHINE SALES.

No person shall sell tobacco products from vending machines. This section does not apply to vending machines in facilities that cannot be entered at any time by persons younger than 18 years of age.

(Ord. 176, passed 12-1-1997) Penalty, see § 10.99

§ 112.06 COMPLIANCE CHECKS.

The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with M.S. § 609.685, as it may be amended from time to time. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority.

(Ord. 176, passed 12-1-1997)

§ 112.07 EFFECTIVE DATE.

This chapter shall be effective upon its adoption and publication.
(Ord. 176, passed 12-1-1997)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

113.01	Definitions
113.02	Exceptions to definitions
113.03	Licensing; exemptions
113.04	License ineligibility
113.05	License suspension and revocation
113.06	License transferability
113.07	Registration
113.08	Prohibited activities
113.09	Exclusion by placard

§ 113.01 DEFINITIONS.

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

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term **HAWKER**.

PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent, or employee.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time.

The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER**.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

§ 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS**, **SOLICITORS**, and **TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 113.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

§ 113.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329, as

it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 113.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;
- (13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any requested county license;
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- (17) A general description of the items to be sold or services to be provided;

(18) All additional information deemed necessary by the City Council;

(19) The applicant's driver's license number or other acceptable form of identification; and

(20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by a fee in an amount set by Council from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer, within 2 regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk-Treasurer determines that the application is incomplete, the City Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk-Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the City Clerk-Treasurer must issue the license unless there exist grounds for denying the license under § 113.04, in which case the Clerk-Treasurer must deny the license. If the City Clerk-Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

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

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion, and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

Penalty, see § 10.99

§ 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

- (A) The failure of the applicant to obtain and show proof of having obtained any required county license;
- (B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;
- (C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;
- (D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; and/or
- (E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

§ 113.05 LICENSE SUSPENSION AND REVOCATION.

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

- (1) Fraud, misrepresentation, or incorrect statements on the application form;
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 113.04; and/or
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the

alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

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

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

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. Penalty, see § 10.99

§ 113.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued. Penalty, see § 10.99

§ 113.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 113.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable. Penalty, see § 10.99

§ 113.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- (A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;
- (B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;
- (C) Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public;
- (D) Conducting business before 7:00 a.m. or after 9:00 p.m.;
- (E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;
- (F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and/or
- (G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Penalty, see § 10.99

§ 113.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

CHAPTER 114: GENERAL LICENSING

Section

- 114.01 Licenses required to engage in certain businesses
- 114.02 Application for license
- 114.03 Issuance of license

114.04	Date and duration of license
114.05	License not transferable
114.06	License certificate to be displayed
114.07	Revocation or suspension
114.08	Appeal and review

§ 114.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title XI of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.
Penalty, see § 10.99

§ 114.02 APPLICATION FOR LICENSE.

- (A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:
- (1) The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable;
 - (2) His or her present occupation and principal place of business;
 - (3) His or her place of residence for the preceding five years;
 - (4) The nature and location of the intended business or enterprise;
 - (5) The period of time for which the license is desired;
 - (6) A description of the merchandise, goods or services to be sold;
 - (7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.
 - (8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.
- (B) Any change in the information required by division (A) of this section must be reported to the City Clerk or other authorized official within 14 days of that change.
- (C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application.

Penalty, see § 10.99

§ 114.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

§ 114.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

§ 114.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

Penalty, see § 10.99

§ 114.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 10.99

§ 114.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:

(1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;

(2) For any misrepresentation of a material fact in the application discovered after issuance of the license;

(3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;

(4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or

(5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

§ 114.08 APPEAL AND REVIEW.

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official. Notice of appeal shall be filed in writing with the City Clerk. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- | | |
|--------|--|
| 130.01 | Falsely reporting a fire or interfering with the duties of the Fire Department |
| 130.02 | Disorderly conduct |
| 130.03 | Curfew for minors |

§ 130.01 FALSELY REPORTING A FIRE OR INTERFERING WITH THE DUTIES OF THE FIRE DEPARTMENT.

(A) It shall be unlawful for any person to inform the Fire Department that a fire is in progress, knowing that it is false and intending that the Fire Department shall act in reliance upon it, or refuse to obey any reasonable order of the Chief at a fire or to interfere with the Fire Department in the discharge of its duties.

(B) Any person convicted of violating this section shall be guilty of a misdemeanor.

(C) This section shall be in force and effect from and after its passage, approval, and publication according to law.

(Ord. 146, passed 12-5-1990) Penalty, see § 10.99

§ 130.02 DISORDERLY CONDUCT.

(A) It is unlawful for any person, in a public or private place, knowing or having reasonable grounds to know, that it will, or will tend to, alarm, anger, or disturb others or provoke any assault or breach of the peace, to do the following:

- (1) Engage in brawling or fighting;
- (2) Disturb an assembly or meeting, not unlawful in its character;
- (3) Engage in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others;
- (4) Willfully and lewdly exposes his or her person or the private parts thereof, or procures another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;
- (5) Race the motor of any motor vehicle;
- (6) Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn;
- (7) Use a flash or spot light in a manner so as to annoy or endanger others;

(8) Cause defacement, destruction, or otherwise damage to any premises or any property located thereon;

(9) Strew, scatter, litter, throw, dispose of, or deposit any refuse, garbage, or rubbish onto any premises except into receptacles provided for the purposes; or

(10) Fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his or her official duty, nor shall it include the spouse, children, employee, or tenant of the owner or occupier.

(B) This section shall take effect and be in force from and after its passage and publication according to law.

(Ord. 144, passed 12-5-1990) Penalty, see § 10.99

§ 130.03 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for 4 primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to

the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours; minors under the age of 18 years.* No minor under the age of 18 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m., except on Friday and Saturday, which the hours shall be 12:00 a.m. and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain

to the city's designated law enforcement provider about the minor's presence;
and

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless 1 of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Affirmative defense.* A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.
Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

- 150. GENERAL PROVISIONS
- 151. ZONING CODE
- 152. ZONING CODE EXPANDED
- 153. FLOODPLAIN MANAGEMENT

CHAPTER 150: GENERAL PROVISIONS

Section

General Provisions

- 150.01 Title
- 150.02 Purpose
- 150.03 Jurisdiction
- 150.04 Rules and definitions
- 150.05 Improvements
- 150.06 Monuments
- 150.07 Streets

Fulda, Minnesota Code of Ordinances

150.08	Water mains
150.09	Sanitary sewer
150.10	Storm draining, curb, and gutter facilities
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Fences

150.25	Purpose
150.26	Definitions
150.27	Erection
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GENERAL PROVISIONS

§ 150.01 TITLE.

This subchapter shall be known and may be cited and referred to as the City of Fulda, when referred to herein, it shall be known as this subchapter. (Ord. 172, pas-sed 10-7-1996)

§ 150.02 PURPOSE.

This subchapter is enacted for the following purposes: to promote the health, safety, and general welfare throughout the City of Fulda, lessening congestion in the public rights-of-way, securing safety from fire, panic, and other dangers, providing adequate light and air; facilitating the adequate provisions of water, sewerage, and other public requirements; conserving the value of properties and encouraging the most appropriate use of land. (Ord. 172, passed 10-7-1996)

§ 150.03 JURISDICTION.

The jurisdiction of this subchapter shall apply to all the area of the City of Fulda. (Ord. 172, passed 10-7-1996)

§ 150.04 RULES AND DEFINITIONS.

For purposes of this subchapter, certain terms or words used herein shall be interpreted as follows.

(A) The word developer includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(B) The word shall and must is mandatory, and not discretionary; the may is permissive.

(C) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.

(D) The term used for shall include the phrases arranged for, designed for, intended for, maintained for, and occupied for.

(E) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is 1/2 foot or less, the integral foot next below shall be taken.

(Ord. 172, passed 10-7-1996)

§ 150.05 IMPROVEMENTS.

Before the City Council approves a final plat, the subdivider shall give satisfactory assurances of the installation of the improvements described in this subchapter.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.06 MONUMENTS.

Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as shown on the final plat and as required by the City Council. Pipes or steel rods 24 inches in length shall be placed at the corners of each lot and at each intersection of street center lines. All U.S., state, county, and other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved imprecise position.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.07 STREETS.

All streets shall be improved in accordance with the engineering specifications established by the city, and in accordance with the city's assessment standards policy. The full right-of-way of all streets shall be put to grade.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.08 WATER MAINS.

All properties shall be connected to the city water system as per §§ 50.01 *et seq.* Public water facilities shall be paid for and installed by the Developer under direction of the City Engineer and Minnesota Department of Health. Water stub connections shall be brought to a point at least 5 feet inside the curb line. Plans indicating the exact location of all water stubs shall be filed with the City Clerk-Treasurer.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.09 SANITARY SEWER.

All properties shall be connected to the city sanitary sewer system in accordance with Chapter 51. Public sanitary sewer lines regardless of size shall be paid for by the developer or in accordance with the city's assessment standards. Where sanitary sewer lines are installed in the street right-of-way, all sewer stub connections shall be brought to a point at least 5 feet inside the curb line. Plans indicating the exact location of all sewer stubs shall be filed with the City Clerk-Treasurer.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.10 STORM DRAINING, CURB, AND GUTTER FACILITIES.

All properties shall be served with storm drainage, curb, and gutter facilities that meet the standards of the City Council. Public storm drainage facilities shall be paid for by the developer or in accordance with the city's assessment standards. Properties within the Shoreland District shall adhere to the stormwater management section of Chapter 152.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.11 TREE PLANTING.

(A) Trees having a trunk diameter (measured 12 inches above the ground) of not less than 2 inches may be planted along all streets where trees do not exist, a minimum of 1 per 60 feet of the boulevard is preferred. It is also preferable if an equivalent number of the same size trees exist or are planted in a naturalistic way in the front yards of the lots. The trees should be planted in at least 1 cubic yard of growing soil. No boulevard tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 15 feet to any fireplug, nor 5 feet from any driveway. Consideration should be given to the location of the sewer and other utility lines both above and below ground when trees are planted on the boulevard.

(B) Recommended trees planted in the boulevard should be of the following variety:

- (1) Green Ash;
- (2) European Mt. Ash;
- (3) Red Splendor Crab Apple;
- (4) American Linden (Basswood);
- (5) Red Maple;
- (6) Norway Maple;
- (7) Sugar Maple;
- (8) Silver Maple;
- (9) Shademaster Honey Locust;
- (10) Newport Plumb;
- (11) Amur Maple;
- (12) Hackberry;
- (13) Red Oak
- (14) Pin Oak;
- (15) White Oak; and
- (16) Ironwood.

(Ord. 172, passed 10-7-1996) Penalty, see § 10.99

§ 150.12 STREET NAME SIGNS.

Street name signs shall be furnished by the city.

(Ord. 172, passed 10-7-1996)

§ 150.13 SPECIAL CONDITIONS.

At its discretion, the City Council reserves the right to alter or waive any or all portions of the rules and specifications outlined in this subchapter.

(Ord. 172, passed 10-7-1996)

§ 150.14 EFFECTIVE DATE.

This subchapter shall be effective upon its adoption and publication.

(Ord. 172, passed 10-7-1996)

FENCES

§ 150.25 PURPOSE.

The purpose of this subchapter is to provide for the regulation of fences in the City of Fulda, to prevent fences being erected that would be a hazard to the public, or an unreasonable interference with the use and enjoyment of neighboring property, and are compatible with existing uses and other zoning restrictions.

(Ord. 122, passed 5-3-1982)

§ 150.26 DEFINITIONS.

Fences shall be any lineal structure including walls, hedges, or similar barriers used to prevent access by persons or animals or prevent visual, sound, or wind transference.

(Ord. 122, passed 5-3-1982)

§ 150.27 ERECTION.

(A) *Generally.* Fences may be permitted in all yards except for the front yard, subject to the following.

(B) *Specifically.*

(1) The side of the fence considered to be the face (finished side as opposed to structural supports) shall be abutting property. If located along a boundary between 2 properties, both sides shall be equally attractive and well-maintained.

(2) No fence shall be permitted on public rights-of-way or on boulevard areas.

(3) No fence shall be erected on corner lots that will obstruct or impede the clear view of an intersection by approaching traffic. (See § 151.30(C)(1)).

(4) A fence may be erected on the property line upon mutual agreement of both property owners in writing.

(5) In residential areas, fences shall not exceed 7 feet in height, measuring from the ground to the top of the fence. Fences within 6 inches of property line shall require the consent of the abutting neighbor.

(6) Fences in commercial or industrial districts may be erected on the lot line to the height of 6 feet; to a height of 8 feet with a security arm for barbed wire.

(7) Every fence shall be constructed in a substantial, workmanlike manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Fences shall be maintained in a condition of reasonable repair and shall not be allowed to become a nuisance, either public or private. Any fence which is dangerous to the public safety, health, or welfare is a public nuisance, and the city may commence proceedings for the abatement thereof. Electric fences may not be used as boundary fences and materials

such as cement blocks, hog wire fencing, barbed wire fencing, or snow fencing will not be allowed.

(8) Temporary snow fencing can be used from November 1 through April 1. No permit shall be required for said temporary fencing.

(9) Fence height is not to exceed 2 feet in front yard and shall be at least 50% open space for the passage of air and light.

(Ord. 122, passed 5-3-1982; Amended 12-2-2013; Ord. passed --; Am. Ord. 252, passed 2-21-2023) Penalty, see § 10.99

§ 150.28 EXISTING FENCES.

(A) No existing fence in violation of this subchapter will be allowed to be replaced or rebuilt. Should an existing fence be replaced or rebuilt, it must come under the regulation of this subchapter.

(B) Violation of this subchapter may be enforced by injunction and the city shall be entitled to the remedy of abatement in order that a fence erected in violation of this subchapter may be removed.

(Ord. 122, passed 5-3-1982) Penalty, see § 10.99

§ 150.29 FENCE PERMIT.

(A) A fence permit shall be required for any fence, wall, or similar barrier. The application shall be accompanied by a plot plan clearly describing the type, location, and method of anchoring the fence. The associated permit fee shall be set by the City Council in accordance with § 32.02 Master Fee Schedule Establishment Appendix A, and shall be adjusted from time to time.

(B) Fences shall not be constructed without a building permit, except temporary fencing.

(Ord. 122, passed 5-3-1982; Amended 12-2-2013) Penalty, see § 10.99

§ 150.30 VIOLATIONS.

Any person, firm, or corporation who violates any of the provisions of this subchapter shall be guilty of a misdemeanor.

(Ord. 122, passed 5-3-1982) Penalty, see § 10.99

§ 150.31 EFFECTIVE DATE.

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

(Ord. 122, passed 5-3-1982)

CHAPTER 151: ZONING CODE

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GENERAL PROVISIONS

§ 151.01 TITLE.

This chapter shall be known as the Fulda Zoning Ordinance except as referred to herein, where it shall be known as this chapter.
(Ord. 113, passed 12-4-1978)

§ 151.02 INTENT AND PURPOSE.

The intent of this chapter is to protect the public health, safety, and general welfare of the community and its people through dividing the city into use districts and establish regulations in regards to location, erection, construction, reconstruction, alterations, and use of structures and land. The regulations are established to protect the use areas; to promote orderly development and redevelopment, to provide adequate light, air, and convenience of access to property; to prevent congestion in public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this chapter; to provide for amendments; to prescribe penalties for violation of the regulations and to define powers and duties of the city staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.
(Ord. 113, passed 12-4-1978)

§ 151.03 STANDARD REQUIREMENT.

Where the conditions imposed by any provisions of this chapter are either more or less restrictive than comparable conditions imposed by other ordinances, rules, or regulations of the city, the ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.
(Ord. 113, passed 12-4-1978)

§ 151.04 INTERPRETATION AND APPLICATION.

In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety, and welfare.

(Ord. 113, passed 12-4-1978)

§ 151.05 CONFORMITY.

No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provision of this chapter.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.06 OCCUPANCY; BUILDING PERMITS.

Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this chapter.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.07 USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS.

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the City Council, or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission, or property owner upon receipt of the staff study shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the city.

(Ord. 113, passed 12-4-1978)

§ 151.08 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 through 462.363, as they may be amended from time to time.

(Ord. 113, passed 12-4-1978)

§ 151.09 COMPREHENSIVE REVISION.

The Council intends this chapter to be a comprehensive revision to the Interim Zoning Ordinance of the city, as amended. Except as otherwise provided herein, the provisions of this chapter are not intended to alter, diminish, or increase or otherwise modify any rights or liabilities existing on its effective date. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to effective date of this chapter is not affected by its enactment.

(Ord. 113, passed 12-4-1978)

§ 151.10 RULES AND DEFINITIONS.

(A) *Rules.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction.

(1) The singular number includes the plural, and the plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word **SHALL** is mandatory while the word **MAY** is permissive.

(4) The masculine gender includes the feminine and neuter.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING OR USE. A subordinate building or use which is located on the same lot which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of the building or main use.

ADDRESS SIGN. A sign communicating street address only, whether written or in numerical form.

ADVERTISING SIGNS. A billboard, poster panel board, painted bulletin board, or other communicative device which is used to advertise products, goods, and/or services which are not exclusively related to the premise on which the sign is located.

AGRICULTURE USES. These uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing, tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season of products grown on premises.

APARTMENT. A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit.

AUTOMOBILE REPAIR-MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; or repair; overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR-MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 9,000 pounds gross weight, but not including any operation specified under Automobile Repair-Major.

AUTOMOBILE WRECKING OR JUNK YARD. Any place where 2 or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of the motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise.

BASEMENT. A portion of a building located partially or wholly underground.

BOARDING (HOUSE) HOME - FOSTER CHILDREN. A family dwelling where children out of their own homes are cared for.

BOARDING HOUSE. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to 3 or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than 10 persons.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING HEIGHT. A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

BUSINESS. Any establishment, occupation, employment, or enterprise where merchandise is manufactured, exhibited, or sold, or where services are offered for compensation.

BUSINESS SIGN. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premise where the sign is located.

CANOPY AND MARQUEE SIGNS. Any message or identification which is affixed to projection or extension of a building or structure, erected in such a manner as to provide a shelter or cover over the approach to any entrance of a store, building, or place of assembly.

CARPORT. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on 3 sides.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUB OR LODGE. A club or lodge is a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests. It shall be permissible to serve food and meals on the premises providing adequate dinning room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed, providing the serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and providing further that the serving of alcoholic beverages is in compliance with the applicable federal, state, and municipal laws.

COMMERCIAL RECREATION. Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theater, fire arms range, amusement rides, campgrounds, and similar uses.

CONDITIONAL USE. A use, which because of special problems of control the use presents, requires reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the welfare and the integrity of the municipal land use plan.

CONDITIONAL USE PERMIT. A permit issued by the Council in accordance with procedures specified in this chapter, as a flexibility device to enable the Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM. A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to the provisions of the Minnesota Condominium Law, M.S. §§ 515.01 through 515.19, as they may be amended from time to time.

CONSTRUCTION SIGNS. A non-illuminated sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise, or the purpose for which the building is intended.

CONVENIENCE FOOD ESTABLISHMENT. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

DAY CARE - GROUP NURSERY. A service provided to the public, in which children of school or pre-school age are cared for during established business hours.

DAY CARE - HOME. A family dwelling in which foster care, supervision, and training for children of school or preschool age out of their own home is provided.

DEPARTMENT STORE. A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

DISTRICT. A section or sections of the city for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DOG KENNEL. Any place where 3 dogs or more over 6 months of age are boarded, bred, and/or offered for sale, except a veterinary.

DRIVE-IN ESTABLISHMENT. An establishment which accommodates the patron's automobiles from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

DWELLING. A building or portion thereof, designated exclusively for residential occupancy, including 1-family, 2-family, and multiple-family dwellings, but not including hotels, motels, and boarding houses.

DWELLING, MOBILE HOME. A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a **MOBILE HOME**.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not included buildings.

FAMILY. One or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than 4 persons not so related maintaining a common household and using common cooking and kitchen facilities.

FLASHING SIGN. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

GARAGE-PRIVATE. An accessory building or accessory portion of the principal building which is intended for and used to store the passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on; provided that not more than 1/2 of the space may be rented for the private vehicles of persons not resident on the premises.

GARAGE-PUBLIC. A building or portion of a building, except any herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire and in which any sale of gasoline, oil, and accessories is only incidental to the principal use.

GOVERNMENTAL SIGN. A sign which is erected by a governmental unit for the purpose of identification and directing or guiding traffic.

GRADE (ADJACENT GROUND ELEVATION). The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

GRADING. Changing the natural or existing topography of land.

GUEST ROOM. A room occupied by 1 or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

HOLIDAY SIGNS. Signs or displays which contain or depict a message pertaining to a national or state holiday, and no other matter.

HOME OCCUPATION. A business conducted in a residential area from which the home is used as the base or central location for operating the business.

HOTEL. Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing more than 10 guests rooms, used, designated or intended to be used, let, or hired out to be occupied, or which are occupied by more than 10 individuals for compensation, whether the compensation be paid directly or indirectly.

IDENTIFICATION SIGNS. Signs in all districts which identify the business or owner, or manager or resident and set forth the address of the premises where the sign is located and which contain no other material.

ILLUMINATED SIGN. Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

INDIVIDUAL PROPERTY SALE OR RENTAL SIGNS. Any on premise sign announcing the name of the owner, manager, realtor, or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered.

INFORMATIONAL/DIRECTIONAL SIGN. Any sign giving information to employees, visitors, or delivery vehicles, but containing no advertising. May include name of business but must predominantly represent a directional or informational message.

INSTITUTIONAL SIGN. A sign or bulletin board which identifies the name and other characteristics of a public, semi-public, or private institution on the site where the sign is located. Institutions shall include churches, nursing homes, schools, and other nonprofit and charitable organizations.

INTEGRAL SIGNS. Names of buildings, date of construction, commemorative tables and the like, which are of a permanent type of construction and which are an integral part of the building or the structure.

LODGING HOUSE. A building other than a hotel, where for compensation for definite periods, lodging is provided for 3 or more persons not of the principal family, but not including a building providing this service for more than 10 persons.

LODGING ROOM. A room rented as sleeping and living quarters but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as 1 lodging room.

LOT. Land occupied or to be occupied by a building and its accessory buildings, together with the open spaces as are required under provisions of this zoning regulation, having not less than the minimum area required by this Zoning Ordinance for a building site in the district in which the lot is situated and having its principal frontage on a street, or a proposed street approved by the Council.

LOT AREA. The area of a horizontal plane within the lot lines.

LOT, CORNER. A lot situated at the junction of and abutting on 2 or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 135 degrees or less.

LOT, DEPTH. The shortest horizontal distance between the front lot line and the rear lot line measured from a 90-degree angle from the street right-of-way within the lot boundaries.

LOT, FRONTAGE. The front of a lot shall be, for purposes of complying with this chapter, that boundary abutting a public right-of-way having the least width.

LOT, INTERIOR. A lot, other than a corner lot, including through lots.

LOT, LINE. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

LOT (OF RECORD). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this chapter, or approved by the city as a lot subsequent to the date and which is occupied by or intended for occupancy by 1 principal building or principal use together with any accessory buildings and the open spaces as required by this chapter and having its principal frontage on a street, or a proposed street approved by the Council.

LOT, THROUGH. A lot fronting on 2 parallel streets.

LOT, WIDTH. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.

MEDICAL AND DENTAL CLINIC. A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

MOTEL/MOTOR HOTEL. A building or group of detached, semidetached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is

designed, used, or intended to be used primarily for the accommodation of transient guests traveling by automobile.

MOTOR FREIGHT TERMINAL (TRUCK TERMINAL). A building in which freight brought by motor truck is assembled and sorted for routing in interstate and interstate shipment.

MOTOR FUEL STATION. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

NAME PLATE. A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

NONCONFORMING STRUCTURE OR USE. Any structure or use which on the effective date of this chapter does not, even though lawfully established, conform to the applicable conditions of the structure or use was to be erected under the guidance of this chapter.

NURSING HOME (REST HOME). A building having accommodations where care is provided for 2 or more invalids, infirmed, aged, convalescent or physically disabled person that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

OFF-STREET LOADING SPACE. A space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. The space shall be of the size as to accommodate 1 truck of the type typically used in the particular business.

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing same prior to sale .

OUT-PATIENT CARE. Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

PARKING SPACE. An area, enclosed in the main building, in an accessory building, or un-enclosed, sufficient in size to store 1 automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

PERMITTED USE. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulation and performance standards (if any) of the districts.

PERSON. An individual, firm, partnership, association, corporation, or organization of any kind.

POLITICAL CAMPAIGN SIGNS. Signs or posters announcing the candidate(s) seeking political office and/or political issues, and data pertinent thereto.

PRINCIPAL USE. The main use of land or buildings as distinguished from subordinate or accessory use. A **PRINCIPAL USE** may be either permitted or conditional.

PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

PUBLIC SIGN. Signs of a public, non-commercial nature, to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historic points of interest, memorial plaques, and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.

PUBLIC USES. Uses owned or operated by municipal, school districts, county, state, or other governmental units.

REAL ESTATE SIGNS. A business sign placed upon a property advertising that particular property for sale, for rent, for lease, or sold.

RECREATION, FIELD, OR BUILDING. An area of land, water, or any building in which amusement, recreation, or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus, or gymnasium is a recreation field or building for the purpose of this chapter.

RESTAURANT. An establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

ROOF LINE. Is defined as the top of the coping; or, when the building has a pitched roof, as the intersection of the outside wall with the roof.

SETBACK. The minimum horizontal distance between a building and street or lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

SIGN. The use of any words, numerals, figures, devices, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, are visible to the general public.

SIGN AREA. The area within the marginal lines created by the sign surface which bears the advertisement or, in the case of messages, figures, or symbols attached directly to the part of a building, which is included in the smallest geometric figure which can be made to circumscribe the message, figure, or symbol displayed thereon.

SIGN STRUCTURE. The supports, foundations, uprights, bracing, and framework for a sign, including the sign area.

SHOPPING CENTER. An integrated grouping of commercial stores, under single ownership or control.

STORY. The portion of a building included beneath the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused underfloor space is more than 6 feet above grade as defined herein for more than 50% of the total perimeter or is

more than 12 feet above grade as defined herein at any point, the basement, cellar, or unused underfloor shall be considered as a story.

STREET FRONTAGE. The proximity of a parcel of land to 1 or more streets. An interior lot has 1 street frontage and a corner lot has 2 frontages.

STRUCTURE. Anything which is built, constructed, or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

TEMPORARY SIGN. Any sign which is erected or displayed for a specified period of time.

TOWNHOUSES. Structures housing 3 or more dwelling units of not more than 2 stories each and contiguous to each other only by sharing of 1 common wall, the structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of 8 dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

USE. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained, and shall include the performance of the activity as defined by the performance standards of this chapter.

USABLE OPEN SPACE. A required ground area or terrace area on a lot which is graded, developed, landscaped, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. The areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space.

USED AUTO PARTS. The processing, storage, and sale of second hand or used automobile or other vehicle parts provided the use is established entirely within enclosed buildings.

VARIANCE. The waiving by Board action of the literal provisions of the Zoning Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

WALL GRAPHICS. A sign which is painted directly on an exterior wall surface.

WALL SIGN. A sign which is affixed to the exterior wall of a building. A **WALL SIGN** does not project more than 18 inches from the surface to which it is attached, nor extend beyond top of parapet wall.

WATERBODY. A body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERCOURSE. A channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year-around or intermittently.

WATERSHED. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

YARD. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the lot is located.

YARD, FRONT. A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building

YARD, REAR. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE. A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

(Ord. 113, passed 12-4-1978)

§ 151.11 EFFECTIVE DATE.

This chapter becomes effective 1-1-1979 and after publication in the official newspaper.

(Ord. 113, passed 12-4-1978)

GENERAL REGULATIONS

§ 151.25 NONCONFORMING BUILDINGS, STRUCTURES, AND USES.

(A) It is the purpose of this section to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this section that all nonconforming uses shall be eventually brought into conformity.

(B) (1) Any structure of use lawfully existing upon the effective date of this chapter shall not be enlarged, but may be continued at the size and in the manner of operation existing upon the date except as hereinafter specified or subsequently amended.

(2) The statutory right of legal nonconformities to continue specifically provides that the right does not include expansion of the use. Because the state statute does not define expansion, some cities choose to define expansion in the city zoning ordinance. The definition could refer to any physical expansion of the nonconforming use, or even intensifying the use.

(C) Nothing in this chapter shall prevent placing of a structure in safe condition when the structure is declared unsafe by the Building Inspector providing the necessary repairs shall not constitute more than 50% of fair market value of the structure. The value shall be determine by the County Assessor.

(D) No nonconforming building, structure, or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this chapter adoption unless the movement shall bring the nonconformance into compliance with the requirements of this chapter.

(E) When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(F) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure of parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

(G) If at any time a nonconforming building, structure, or use shall be destroyed to the extent of more than 50% of its fair market value, the value to be determined by the County Assessor, then without further action by the Council, the building and the land on which the building was located or maintained shall, from and after the date of the destruction, be subject to all the regulations specified by these zoning regulations for the district in which the land and buildings are located. Any building which is damaged to an extent of less than 50% of its value may be restored to its former extent. Estimate of the extent of damage or destruction shall be made by the Building Inspector.

(H) Whenever a lawful nonconforming use of a structure or land is discontinued for a period of 6 months, following written notice from an authorized agent of the city, any future use of the structure or land shall be made to conform with the provisions of this chapter.

(I) Normal maintenance of a building or other structure containing or related to a lawful repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

(J) Alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building.

(K) Any proposed structure which will, under this chapter, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this chapter, may be completed in accordance with the approved plans; provided construction is started within 60 days of the effective date of this chapter, is not abandoned for a period of more than 120 days, and

continues to completion within 2 years. The structure and use shall thereafter be a legally nonconforming structure and use.

(Ord. 113, passed 12-4-1978; Amended 12-2-2013) Penalty, see § 10.99

§ 151.26 DWELLING UNIT RESTRICTION.

(A) Except in cases of emergency, as established by the City Council, no garage or accessory building shall at any time be used as a dwelling unit, temporarily or permanently.

(B) Basements and cellars may be used as living quarters or rooms as a portion of residential dwellings, provided they meet the applicable provisions of the Minnesota State Building Code.

(C) Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

(Ord. 113, passed 12-4-1978; Am. Ord. 227, passed 8-1-2016) Penalty, see § 10.99

§ 151.27 PLATTED AND UNPLATTED PROPERTY.

(A) Any person desiring to improve shall submit to the Building Inspector a sketch if the premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property encroachments, and any other information which may be necessary to ensure conformance to this chapter.

(B) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.

(C) One- and 2-family dwelling units hereinafter erected shall be so located that at least a 2-car garage 24 by 24 either attached or detached can be located on the lot in conformance with the applicable setback requirements in the district. The location of the garage shall be diagramed upon submission of a building plan.

(D) A lot of record existing upon the effective date of this chapter in a Residence District, which does not meet the requirements of this chapter as to area or width may be utilized for single-family detached dwelling purposes provided the measurements of the area or width are within 50% of the requirements of this chapter.

(E) Except in the case of planned unit developments as provided for in this chapter not more than 1 principal building shall be located in a lot.

(F) On a through lot (a lot fronting on 2 parallel streets), or corner lot, both street lines shall be front lot lines for applying the yard and parking regulations of this chapter.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

**§ 151.28 ACCESSORY BUILDINGS, USES, AND EQUIPMENT;
STORAGE/CARGO CONTAINERS.**

(A) *Accessory buildings, uses, and equipment.*

(1) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.

(2) No accessory building shall be erected or located within any required yard other than the rear yard.

(3) Accessory buildings and garages shall not exceed 20 feet in height and shall be five feet or more from all lot lines of adjoining lots (this includes the outer most part, including the outer most part, including gutters, of the structure), except as noted in division (A)(4) below; and shall not be located within a utility easement.

(4) The outer most part (includes gutters) of any accessory building may be set back 2 feet from the side lot line if it is located 70 feet or more from the front property line, and if the yard is an interior lot.

(5) No accessory building or garage accessory to single-family residence shall occupy more than 25% of a rear yard, nor exceed 1,500 square feet of floor area.

(6) No permit shall be issued for the construction of more than 1 private garage structure for each dwelling. Each applicant for a building permit to construct any dwellings shall be required to provide off-street parking space for at least 1 automobile per family to be housed in addition to any garage space to be used. Every dwelling unit hereafter erected shall be so located on the lot so that at least a 2 car garage, either attached or detached, can be located on the lot.

(B) *Storage/cargo containers.*

(1) *Residential Districts - temporary storage container.* No more than 1 temporary storage container may be stored in side or rear yard, provided that such side yard storage shall not be adjacent to a street and all setbacks are met. The container may be located on the property for a period not to exceed 6 months per year, while storage is required for remodeling or other activities related to property.

(2) *Business/Industrial Districts.* Temporary storage containers are allowed as a permitted use. The container/containers may be stored in side or rear yard, provided that such side yard storage shall not be adjacent to a street and all setbacks are met. No property shall be allowed more than 2 storage units.

(3) *Grandfathering existing devices.* Existing lots or parcels which contain portable storage device prior to adoption of this division (B) are hereby "grandfathered" and may be continued for that use as a non-conforming until moved or change of ownership.

(Ord. 113, passed 12-4-1978; Amended 12-2-2013; Amended 8-17-2017; Am. Ord. 251, passed 2-21-2023; Am. Ord. 258, passed 4-29-2025) Penalty, see § 10.99

§ 151.29 DRAINAGE PLANS.

In the case of all apartment, business, and industrial developments, the drainage plans shall be submitted to the City Engineer for his or her review and the final drainage plan shall be subject to his or her written approval. (Ord. 113, passed 12-4-1978)

§ 151.30 PERFORMANCE STANDARDS.

(A) *Purpose.* The performance standards established in this section are designed to encourage high quality development by providing assurance that neighboring land used will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause blight. All future development in the city shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Building Inspector shall be responsible for enforcing these standards and may require the submission of information showing compliance or non-compliance with the standards.

(B) *Proposed uses.* Before any building permit or certificate of occupancy is approved, the Building Inspector shall determine whether the proposed use is likely to conform to the performance standards. The developer shall supply additional data about the proposed use (such as equipment to be used, hours of operation, method of refuse disposal, type, and location of exterior storage, and the like), where required to do so by the Building Inspector. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will conform with the performance standards.

(C) *General fencing, screening, and landscaping.*

(1) No fence or no structures or planting of trees or shrubs shall be permitted within 20 feet of any corner formed by the intersection of street property lines or the right-of-way of a railway intersecting a street. The 20 feet referred to above shall be in the form of a triangle with 2 sides formed by a straight line connecting the two 20-foot points on both sides of the corner.

(2) In all districts the lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be planted and maintained in grass, sodding, shrubs or other acceptable vegetation or treatment generally used in landscaping. Fences or trees placed upon utility easements are subject to removal if required for the maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed 10 feet in height.

(D) *Required fencing, screening, and landscaping.* The fencing and screening required by this chapter shall be subject to division (C) above and shall consist of either a fence or a green belt planting strip. Where any business or industrial use (i.e., structure, parking, or storage) abuts property zoned for residential use, that business or industry shall provide screening along the

boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

(E) *Glare.* Any lighting used to illuminate an off-street parking area, sign of other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light in a public street shall not exceed 1 foot candle (meter reading) as measured from the center line of the street. Any light or combination of lights which cast light on residential property shall not exceed 4 foot candles (meter reading) as, measured from the property.

(F) *Smoke.* The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as it may be amended from time to time.

(G) *Dust and other particulated matter.* The emission of dust, fly ash, or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as it may be amended from time to time.

(H) *Odors.* The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as it may be amended from time to time.

(I) *Noise.* All noise shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation NPC, as it may be amended from time to time.

(J) *Refuse.* Passenger automobiles, station wagons, and trucks not currently licensed by the state, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period on excess of 30 days, and all materials stored outside in violation of this chapter are considered refuse or junk and shall be disposed of. No junk yard may continue as a nonconforming use for more than 1 year after the effective date of this chapter, except that a junk yard may continue as a nonconforming use in as industrial district if within that period it is completely enclosed within a building, fence, screen planting, or device of the height so as to screen completely the operations by the junk yard. Plans of such a building or device shall be approved by the City Planning Commission and City Council before it is erected or put into place. The piling of junk in yards in all residential districts shall be considered to be a nonconforming use and shall be removed within a period of 3 months after the effective date of this chapter.

(K) *Exterior storage.* All materials and equipment except as provided for in §§ 151.53 through 151.57 and 151.70 through 151.73 shall be stored within

a building or fully screened so as not to be visible from adjoining properties, except for the following:

- (1) Clothes line pole and wires;
 - (2) Recreational equipment;
 - (3) Construction and landscaping material currently being used on the premises; and
 - (4) Off-street parking of passenger vehicles and trucks not exceeding a gross weight of 12,000 pounds in residential areas.
- (Ord. 113, passed 12-4-1978; Amended 12-2-2013) Penalty, see § 10.99

§ 151.31 YARD REQUIREMENTS.

(A) This section identifies minimum yard spaces and areas to be provided for in each zoning district.

(B) No lot, yard, or other open space shall be reduced in area or dimension as to make the lot, yard, or open space less than the minimum required by this chapter, and if the existing yard or other open space as existing is less than the minimum required it shall not be further reduced. No required open space provided about any building or structure shall be included as a part of any open space required for another structure.

(C) All setback distances, as listed in the table below, shall be measured from the appropriate lot line.

	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>
A	50 Feet	30 Feet	20 Feet
R	30 ii	(5*)10	20
R-M	30	10	20
B	0 iii	0 iii	10 iii
I	40	25 iii	40
H	0	0	0

NOTES TO TABLE:

H - Historical Site

ii - Where adjacent structures within same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only 1 adjacent structure, the required setback and the setback of the adjacent structure. In no case shall the minimum front yard setback exceed 30 feet.

iii - Not less than 10 feet from lot line, if abutting an residential district.

* - Where a lot of record has a lot width of less than 80 feet.

(D) The following shall not be considered as encroachments on yard setback requirements:

- (1) Chimneys, flues, belt course, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like provided they do not project more than 2 feet from any lot line;

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(2) Terraces, steps, uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than 2 feet from any lot line; and

(3) In rear yards: recreational and laundry drying equipment, arbors and trellises, balconies, breezeways, open porches, detached outdoor living rooms, garages, and air conditioning or heating equipment.

(4) *Setback exceptions for wheelchair ramps.* The zoning officer may authorize installation of a wheelchair ramp within a required setback in compliance with the following criteria:

(a) The applicant has submitted a letter from a licensed physician specifying that the wheelchair ramp is necessary to accommodate a resident of the property.

(b) The wheelchair ramp shall be designed so as to encroach into the required setback the minimum distance feasible.

(c) The wheelchair ramp shall not encroach into the recorded easement or into the public right-of-way.

(d) The encroachment into the required setback shall be removed when the individual requiring the wheelchair ramp no longer resides on the property or the wheelchair ramp is no longer required.

(e) The wheelchair ramp shall be designed and constructed in accordance with the applicable provisions of the Americans with Disabilities Act (ADA).

(Ord. 113, passed 12-4-1978; Am. Ord. 247, passed 5-3-2021; Am. Ord. 251, passed 2-21-2023)

§ 151.32 AREA AND BUILDING SIZE REGULATIONS.

(A) *Purpose.* This section identifies minimum area and building size requirements to be provided for in each zoning district in the table below.

<i>District</i>	<i>Lot Area</i>	<i>Lot Width</i>	<i>Building Height</i>
A	2 acres	200	2½
R	13,000 sq. ft.	100	2½
R-M	48,000 sq. ft.	200	1
B	2,500 sq. ft.	25	3
I	1 acre	150	3
H - Historical			

(B) *Sanitary sewer.* Where sewer is not available, the minimum lot size shall be not less than 1 acre, with a minimum lot width of not less than 150 feet.

(C) *Lot area per unit.* The lot area per unit requirement for townhouses, condominiums, and planned unit developments shall be calculated on the basis of the total area in the project and as controlled by an individual and joint ownership.

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2-Family	7,000 square feet*
Townhouse	6,000 square feet*
Mobile Home	6,000 square feet*
Multiple-Family	3,000 square feet*
NOTES TO TABLE: * - No dwelling unit other than single-family shall be allowed without public sanitary sewer and water.	

(D) *Exceptions.* The building height limits established herein for districts shall not apply to the following:

- (1) Belfries;
- (2) Chimneys or flues;
- (3) Church spires;
- (4) Cooling towers;
- (5) Cupolas and domes which do not contain usable space;
- (6) Flag poles;
- (7) Parapet walls extending not more than 3 feet above the limiting height of the building;
- (8) Monuments;
- (9) Water towers;
- (10) Poles, towers, and other structures for essential services;
- (11) Necessary mechanical and electrical appurtenances;
- (12) Television and radio antennas not exceeding 50 feet above roof; and
- (13) Farm structures.

(E) *Excluded elements.* No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than 25% of the area of the roof nor exceed 10 feet unless otherwise noted.

(F) *Minimum floor area per dwelling unit.*

(1) *One-, 2-family dwellings, and townhouses.* The minimum floor area for the type building shall be not less than 800 square feet.

(2) *Multiple-dwelling units.* Living units floor areas per unit: dwelling shall have the following minimum:

- (a) Efficiency units - 600 square feet;
- (b) One bedroom units - 700 square feet;
- (c) Two bedroom units - 800 square feet; and
- (d) More than 2 bedroom units - an additional 100 square feet for each additional bedroom.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.33 OFF-STREET PARKING REQUIREMENTS.

(A) *Purpose.* The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) *Application of off-street parking regulations.* The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the city.

(C) *Site plan drawing necessary.* All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this section.

(D) *General provisions.*

(1) *Reduction of existing off-street parking space or lot area.* Existing upon the effective date of this chapter shall not be reduced in number or size exceeds the requirements set forth herein for a similar new use.

(2) *Nonconforming structures.* Should a nonconforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in these zoning regulations, except that in doing so, any off-street parking or loading space which existed before shall be retained.

(3) *Change of use or occupancy of land.* No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.

(4) *Change of use or occupancy of buildings.* Any change of use or occupancy of any building or buildings including additions thereto requiring more parking areas shall not be permitted until there is furnished the additional parking spaces as required by these zoning regulations.

(5) *Accessory to residential use.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles; no more than 1 truck not to exceed gross capacity of 12,000 pounds; and recreational vehicles and equipment.

(6) *Calculating space.*

(a) When determining the number of off-street parking spaces results in a fraction, each fraction of 1/2 or more shall constitute another space.

(b) In stadiums, churches, and other places of public assembly in which patrons or spectators occupy benches, pews or similar seating facilities, each 22 inches of the seating facilities shall be counted as 1 seat for the purpose of determining requirements.

(c) Should a structure contain 2 or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.

(7) *Stall, aisle, and driveway design.*

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(a) Each parking space shall be not less than 9 feet wide and 20 feet in length exclusive of access aisles, and each space shall be served adequately by access aisles.

(b) The off-street parking requirements may be furnished by providing a space so designed within the principal building or 1 structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert the parking structure into a dwelling unit or living area or other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(c) Except in the case of single-, 2-family, and townhouses dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-, 2-family, and townhouse dwellings, parking area design which requires backing into the public street is prohibited.

(d) In the case of lots less than 80 feet in width, the required parking spaces serving 1- and 2-family dwelling may be designed for parking not more than 2 vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this chapter.

(e) No curb cut access shall be located less than 40 feet from the intersection of 2 or more street rights-of-way. This distance shall be measured from the intersection of curb lines.

(f) Except in the case of single-family, 2-family, and townhouse dwellings, parking areas and their aisles shall be developed in compliance with the following standards:

<i>Angle</i>	<i>Wall to - Wall Minimum</i>	<i>Wall to Interlock Minimum</i>	<i>Interlock to Interlock Minimum</i>
Parking Parallel: 22 feet in length			

(g) No curb access shall exceed 36 feet in width.

(h) Driveway access curb opening in a public street except for single-, 2-family, and townhouse dwellings shall not be located less than 40 feet from one another.

(i) The grade elevation of any parking area shall not exceed 5%.

(j) Each property shall be allowed 1 curb cut access for each 100 feet of street frontage. All property shall be entitled to at least 1 curb cut. Single-family uses shall be limited to 1 curb cut access per street frontage.

(k) All areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Plans for surfacing and drainage and stalls for 5 or more vehicles shall be submitted to the City Engineer for his or her review and the final drainage plan shall be subject to his or her written approval.

(l) Except for single-, 2-family, and townhouses, all parking stalls shall be marked with white painted lines not less than 4 inches wide.

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(m) Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with § 151.30.

(n) No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot.

(o) Except for single-, 2-family, and townhouses, all open off-street parking shall have a perimeter curb barrier around the entire parking lot, the curb barrier shall not be closer than 5 feet to any lot line or if abutting residentially zoned property, not less than 10 feet from a lot line. Grass, plantings, or surfacing material shall be provided in all areas bordering the parking area.

(p) All open, non-residential, off-street parking areas of 5 or more spaces shall be screened and landscaped from abutting or surrounding residential districts in compliance with § 151.30.

(E) *Maintenance.* It shall be the joint and several responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner, the parking space, access ways, striping, landscaping, and required fences.

(F) *Location.* All accessory off-street parking facilities required by this chapter shall be located and restricted as follows:

(1) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of division (I) below;

(2) Except for single-, 2-family, and townhouse dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited;

(3) The boulevard portion of the street right-of-way shall not be used for parking; and

(4) In the case of single-, 2-family, and townhouse dwellings parking shall be prohibited in any portion of the front yard except designated driveways leading directly into a garage.

(G) *Use of required area.* Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles as regulated by this chapter, and/or storage of snow.

(H) *Number of spaces required.* The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses, hereinafter set forth:

(1) Single-family, 2-family, and townhouse units - 2 spaces per unit;

(2) Boarding house - at least 2 parking spaces for each 3 persons for whom accommodations are provided for sleeping;

(3) Multiple-family dwellings - at least 2 free spaces per unit;

(4) Motels, motor hotels, hotels - 1 space per each rental unit plus 1 space for each employee on a maximum shift;

(5) Church, theatre, auditorium - at least 1 parking space for each 4 seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction requirements which are imposed by this chapter;

(6) Community centers, libraries, private clubs, lodges, museums, art galleries - 10 spaces plus 1 for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure;

(7) Drive-in establishment and convenience food - at least 1 parking for each 15 square feet of gross floor area, but not less than 15 spaces;

(8) Bowling alley - at least 5 parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure;

(9) Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, nightclubs - at least 1 space for each 40 square feet of gross floor area of dining and bar area and 1 space for each 80 square feet of kitchen area;

(10) Golf driving range, miniature golf, archery range - 10 off-street parking spaces plus 1 for each 100 square feet of floor area;

(11) Other uses - other uses not specifically mentioned herein shall be determined on an individual basis by the City Council and Zoning Board. Factors to be considered in the determination shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

(l) *Joint facilities.* The City Council may, after receiving a report recommendation from the Planning Commission, approve a conditional use permit for 1 or more businesses to provide the required off-street parking facilities by joint use of 1 or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately.

(Ord. 113, passed 12-4-1978; Am. Ord. 258, passed 4-29-2025) Penalty, see § 10.99

§ 151.34 OFF-STREET LOADING.

(A) *Purpose.* The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) *Location.*

(1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.

(2) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.

(C) *Surfacing.* All loading berth and access ways shall be improved with surfacing to control the dust and drainage to a plan submitted to and subject to the approval of the City Engineer.

(D) *Accessory use, parking and storage.* Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles and shall not be included as part of the space requirements to meet the off-street parking requirements.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.35 SIGNS.

(A) *Purpose.* This section is established to protect and promote health, safety, general welfare, and order within the City of Fulda through the establishment of a comprehensive and impartial series of standards, regulations, and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use and/or display of devices, signs, or symbols serving as a visual communication media to persons situated within or upon public rights-of-way or properties. The provisions of this section are intended to encourage opportunity for effective, orderly communication by reducing confusion and hazards resulting from unnecessary and/or indiscriminate use of communication facilities.

(B) *Permitted and prohibited signs.*

(1) *Permitted signs.* The following signs are allowed without a permit, but shall comply with all other applicable provisions of this section:

- (a) Public signs;
- (b) Identification signs. There may be 1 per premise, not to exceed 2 square feet in area;
- (c) Integral signs;
- (d) Political campaign signs - shall not exceed 4 square feet in all R zoning districts, or 12 square feet in all other zoning districts. Every campaign sign must contain the name and address of persons responsible for the sign, and that person shall be responsible for its removal. Signs erected before the primary election shall remain in place for no longer than 5 days after the general election or special election for which they are intended. All signs shall be confined to private property. The city shall have the right to remove and destroy unsightly signs or remove signs after the 5-day limit;
- (e) Holiday signs - displayed for a period not to exceed 30 days;
- (f) Construction signs - the signs shall be confined to the site of the construction, alteration, or repair, and shall be removed within 2 years of the date of issuance of the first building permit or when the particular project is

completed, whichever is sooner as determined by the City Building Inspector or his or her agent. No sign may exceed 32 square feet;

(g) Individual property sale or rental signs - signs must be removed upon sale or rental of property. Signs may not measure more than 10 square feet in R districts, nor more than 40 square feet in all other districts; and

(h) Informational/directional signs - shall not be larger than 25 square feet and shall conform to the location provisions of the specific district.

(2) *Prohibited signs.* The following signs are specifically prohibited by this section:

(a) Any sign which obstructs or obscures the vision of drivers or pedestrians, or detracts from the visibility of any official traffic control device;

(b) Any sign which contains or imitates an official traffic sign or signal, except for private, on-premise directional signs; and

(c) All displays shall be shielded to prevent any light to be directed at on-coming traffic in the brilliance as to impair the vision of any driver.

(C) *General provisions.*

(1) All signs shall comply with maintenance § 5-305 of the 1970 edition of Volume V of the Uniform Building code as promulgated by the International Conference of Building Officials.

(2) When electrical signs are installed, the installation shall be subject to the city's electrical code.

(3) No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon any public lands or easements or rights-of-way.

(4) No sign or sign structure shall protrude over public right-of-way except wall (maximum protrusion - 18 inches), canopy, and marquee signs. All signs located over public right-of-way or over any public or private access route (sidewalks, and the like) shall be located a minimum of 8 feet above surface grade.

(5) All height restrictions on signs shall include height of sign structure.

(6) In any district, any portion of any sign exceeding 2 square feet shall be set back 10 feet from any right-of-way line and 15 feet back from any residential property line.

(7) Any sign now or hereafter existing which no longer advertises or identifies a bona fide business conducted, or a service rendered, or a product sold, shall be removed by the owner, agent, or person having the beneficial use and/or control of the building or structure upon which the sign may be found within 10 days after written notice from the Building Inspector.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.36 HOME OCCUPATION.

(A) *Purpose.* The regulation of home occupations within residential structures is intended to ensure that the occupational use is clearly accessory or secondary to the principal dwelling use and that compatibility with surrounding residential uses is maintained.

(B) *Application.* For purposes of this chapter, home occupations, as defined in § 151.10, shall be further defined to distinguished permitted home occupations from conditionally permitted home occupations. Accordingly, all home occupations which fail to satisfy the permitted home occupation criteria shall be considered as a permitted accessory use in all residential zoning districts. Home occupations which fail to satisfy the permitted home occupation criteria, shall require a conditional use permit, as provided for in this chapter, and may be located in any residential zoning district based upon conditions set forth in the approved conditional use permit.

(C) *Permitted.* Permitted home occupations shall consist of:

(1) Businesses which require no interior or exterior changes necessary to conduct the business; which are conducted within a principal building; and which require no mechanical or electrical equipment not customarily found in a home;

(2) Businesses which do not significantly alter the traffic pattern of the neighborhood;

(3) Businesses which do not require employees other than those living on the premises;

(4) Businesses which require no more than 20% of the gross floor area of a dwelling, not to exceed 300 square feet including accessory building; and

(5) Businesses which are not involved in direct sales on the premises except as may be conducted through the use of the U.S. mail or by taking and delivering orders by telephone.

(D) *Conditionally permitted.* Conditionally permitted home occupations shall consist of those home occupations which do not meet the provisions of division (C) above. The home occupation may be granted a conditional use permit provided that:

(1) The City Council shall find that all businesses related activity occurring on the premises shall not cause any adverse change to the residential character of the neighborhood;

(2) The City Council shall find that any exterior changes necessary to conduct the business are sufficiently screened, properly designed, or separated by distance so as to be consistent with existing adjacent residential uses and compatible with the residential character of the district;

(3) The City Council shall find that any interior changes necessary to conduct the business comply with all building, electrical, mechanical and fire codes governing the use in a residential occupancy; and

(4) The City Council shall find that the traffic generated by the business involves only vehicles of the type that typically service single-family residences and that the traffic constitutes neither a nuisance nor a safety hazard. (Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.37 SOLAR ENERGY SYSTEMS.

(A) *Purpose and intent.* The city finds that it is in the public interest to encourage the use and development of solar energy systems that have a positive impact on energy conservation with limited adverse impact on nearby properties. As such, the city supports the use of solar energy systems. The city also finds that the development of solar energy systems should be balanced with the protection of the public health, safety and welfare. The city intends the following standards to ensure that solar energy systems may be constructed within the city while also protecting public safety and the natural resources of the city. Consistent with the city comprehensive plan, it is the intent of the city with this chapter to create standards for the reasonable capture and use by households, businesses, and property owners of their solar energy resource, and encourage the development and use of solar energy systems.

(B) *Applicability.* These regulations are for all solar energy systems and solar energy farms on properties and structures under the jurisdiction of of this code, except that the city requires the owner or operator of solar farms that would generate more than 50 megawatts of power to get approval for such a system from the state Public Utilities Commission (PUC).

(C) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING-INTEGRATED SOLAR SYSTEM. An active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. **BUILDING-INTEGRATED SYSTEMS** include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights, and awnings.

COMMUNITY SOLAR ENERGY SYSTEM. A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.

GROUND MOUNTED PANELS. Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.

PHOTOVOLTAIC SYSTEM. An active solar energy system that converts solar energy directly into electricity.

ROOF OR BUILDING MOUNTED SES. Solar energy system (panels) that is mounted to the roof or building using brackets, stands, or other apparatus.

ROOF PITCH. The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12, 12/12.

SOLAR ACCESS. A view of the sun from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is

located, between the hours of 9:00 a.m. and 3:00 p.m. standard time on any day of the year.

SOLAR COLLECTOR. A device, structure, or a part of a device or structure that the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM (SES). An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal, or chemical means.

SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.

SOLAR HOT WATER SYSTEM. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

(D) *Types of solar energy systems.*

(1) *Rooftop solar energy systems.* Accessory to the primary land use, designed to supply energy for the primary use.

(a) These systems are permitted accessory uses in all districts in which buildings are permitted;

(b) No city land use or site permit is required;

(c) The owner or contractor shall receive a building or mechanical permit before installing a rooftop solar energy system.

(2) Roof-mounted solar panel systems shall comply with the following:

(a) Solar panel systems shall be permitted on the roof of a building provided that the panels are not located on a front or side roof slope facing any public street or a rear roof slope facing a street with two or more lanes as shown;

(b) Solar panel systems shall have a top edge that is parallel to the roof ridge and shall conform to the slope of the roof;

(c) Solar panel systems may be located on any roof slope of an accessory building or structure, such as a patio cover or detached garage, subject to the regulations of this section;

(d) Solar panel systems mounted on flat roofs shall not exceed the maximum height permitted within the zoning district and shall be screened;

(e) Solar panel systems shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave.

(3) Ground-mounted solar energy systems are not permitted within the city limits.

(4) *Community solar energy systems.* Roof-mounted solar energy systems may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid. These systems shall be subject to the following conditions:

(a) Rooftop community solar energy systems are permitted in all districts in which buildings are permitted;

(b) Roof-mounted solar panel systems shall comply with the following:

1. Solar panel systems shall be permitted on the roof of a building provided that the panels are not located on a front or side roof slope facing any public street or a rear roof slope facing a street with four or more lanes as shown in the thoroughfare plan;

2. Solar panel systems shall have a top edge that is parallel to the roof ridge and shall conform to the slope of the roof;

3. Solar panel systems may be located on any roof slope of an accessory building or structure, such as a patio cover or detached garage, subject to the regulations of this section;

4. Solar panel systems mounted on flat roofs shall not exceed the maximum height permitted within the zoning district, and shall be screened in;

5. Solar panel systems shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave.

(c) *Prohibitions.* The city prohibits community solar energy systems within:

1. Six hundred feet of areas designated or protected from development by federal, state, or county agencies as wildlife habitat or wildlife management areas;

2. Wetlands to the extent required by the state Wetland Conservation Act, city wetland regulations, and the city shoreland standards;

3. All floodplain districts.

(d) An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

(e) All structures must meet the setback, height, and coverage limitations for the district in which the system is located.

(5) *Solar farms.* Ground-mounted solar energy arrays that are the primary use on the lot or of a property, designed for providing energy to off-site uses or export to the wholesale market will not be permitted within the city limits.

(E) *Additional standards.* In addition to the standards allowed above, all solar energy systems shall meet the following standards:

(1) The owners or operators of electric solar energy systems that are connected to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain

an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.

(2) Electric solar system components that are connected to a building electric system must have an underwriters laboratory (UL) listing.

(3) All solar energy systems shall meet the standards of the state and national Electric Code.

(4) All rooftop solar systems shall meet the standards of the state Building Code.

(5) All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.

(6) Building or roof-mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed, except that solar energy systems shall not be required to be screened.

(7) Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.

(8) *Setbacks.* All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located.

(F) *Wind energy conservation systems (WECS).*

(1) *General provisions.* The city finds that it is not in the public interest to encourage the use and development of wind energy conservation systems (WECS) within the city limits, and as such deems that no form of WECS will be permitted to be constructed within the city limits.

(2) *Applicability.* These regulations are for all wind energy conservation systems (WECS) on properties and structures under the jurisdiction of Chs. 151 and 152 of this code.

(3) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MICRO-WECS. WECS of five kilowatts nameplate generating capacity or less mounted on a tower.

TIER I WECS. Utility Scale WECS of equal to or greater than 200 kilowatts in total nameplate generating capacity.

TIER II WECS. WECS less than 200 kilowatts in total nameplate generating capacity, these include systems that are primarily used for power on-site or those that are net-metered.

TIER III WECS. Small WECS that are exclusively behind-the-meter turbines up to 40 kilowatts in capacity, including micro turbines that may be found in urban area.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility comprised of one or more wind turbines and accessory facilities, including, but not limited to, power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

WIND TURBINE. A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical through the use of airfoils or similar devices to capture the wind.
(Ord. 253, passed 4-25-2023)

GENERAL DISTRICT PROVISIONS

§ 151.50 ESTABLISHMENT OF DISTRICTS.

The following zoning classifications are hereby established within the City of Fulda:

- (A) Agricultural Districts - Agricultural-Open Space District;
- (B) Residential Districts:
 - (1) R- Low Density and Multiple-Family Residential District; and
 - (2) R-M - Mobile Home Park District.
- (C) Business Districts - General Business District;
- (D) Industrial Districts - I - General Industrial District; and
- (E) Historical Districts.

(Ord. 113, passed 12-4-1978)

§ 151.51 MAP.

The location and boundaries of the district established by this chapter are hereby set forth on the Zoning Map entitled Zoning Map of Fulda. The map on file with the Building Inspector, and hereinafter referred to as the Zoning Map, which map and all of the notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(Ord. 113, passed 12-4-1978)

§ 151.52 ZONING DISTRICT BOUNDARIES.

(A) Zoning district boundary lines of this chapter follow lot lines, railroad rights-of-way lines, the center of watercourses, or the corporate limit lines, all as they exist upon the effective date of this chapter.

(B) Appeals and questions of doubt concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustment and Appeals.

(C) When any street, alley, or other public right-of-way vacated by official action of the city, the zoning district abutting the center line of the alley or other public right-of-way shall not be affected by the proceeding.

(Ord. 113, passed 12-4-1978)

§ 151.53 A AGRICULTURAL - OPEN SPACE DISTRICT.

(A) The A Agricultural District is intended to provide a district which will allow suitable areas of the city to be retained and utilized in open space and/or agricultural uses, prevent scattered non-farm uses from developing improperly, secure economy in government expenditures for public utilities and service.

(B) The following are permitted uses in an A District:

(1) Agriculture, including farm dwelling and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, except as provided for in division (D) below;

(2) Public parks, recreational areas, wildlife areas, and game refuges;

(3) Nurseries and tree farms; and

(4) Essential services.

(C) The following are permitted accessory uses in an A District:

(1) Operation and storage of the vehicles, equipment, and machinery which are incidental to permitted or conditional uses allowed in this district;

(2) The boarding or renting of rooms to not more than 2 persons; and

(3) Living quarters of persons employed on the premises.

(D) The following are conditional uses in an A District: (Requires a conditional use permit based upon procedures set forth in and regulated by § 151.71.):

(1) Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that:

(a) When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with § 151.30; and

(b) The provisions of § 151.71 are considered and satisfactorily met.

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(2) Commercial outdoor recreational areas including golf courses and club house country clubs, swimming pools, and similar facilities, provided that:

- (a) The principal use, function, or activity is open, outdoor in character;
- (b) Not more than 5% of the land area of the site be covered by building or structures;
- (c) When abutting a residential use and a residential use district the property is screened and landscaped in compliance with § 151.30;
- (d) The area of the property containing the use or activity meets the minimum established for the district; and
- (e) The provisions of § 151.71 are considered and satisfactorily met.

(3) Commercial riding stables, dog kennels, commercial livestock lots, and similar uses, provided that:

- (a) Animal building, holding, grazing, and exercise areas are located a minimum of 1,000 feet from any residential, commercial, or industrial use district;
- (b) The land area of the property containing the use or activity meets the minimum established for the district;
- (c) The provisions of § 151.71 are considered and satisfactorily met; and
- (d) All applicable requirements of the State Pollution Control Agency are complied with.

(4) Recreational, travel vehicle camp sites (not including mobile homes), provided that:

- (a) The land area of the property containing the use of activity meets the minimum established for the district;
- (b) The site be served by a major street capable of accommodating traffic which will be generated;
- (c) All driveways and parking areas be surfaced;
- (d) Plans for utilities and waste disposal shall be reviewed by the City Engineer and shall be subject to his or her approval, and all applicable requirements of the State Pollution Control Agency are complied with;
- (e) Not more than 5% of the land area of the site be covered by building or structures;
- (f) The location of the use be at minimum 100 feet from any abutting residential use district;
- (g) All signing and informational or visual communication devices shall be in compliance with this chapter and shall not impact adjoining or surrounding residential uses; and
- (h) The provision of § 151.71 of this chapter are considered and satisfactorily met.

(5) Airports, provided that:

- (a) Effective buffering is provided to reduce ground and landing noise;

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- (b) Adequate fencing, control and protection is provided to prevent unauthorized access into landing field areas;
 - (c) All landing fields and operating facilities are designed, operated, and maintained within and according to federal and state laws and regulations;
 - (d) The addition of a new accessory commercial use or the change in an existing commercial use shall require a conditional use permit and conformance to the conditions of this section;
 - (e) Commercial uses are accessory as defined by § 151.10;
 - (f) Accessory commercial uses are totally enclosed within a structure;
 - (g) Accessory commercial uses are intended to serve and support the airport facilities and personnel and do not attract customers from the general public or community;
 - (h) Any accessory commercial use or storage is at minimum 200 feet from abutting residential districts or use boundaries;
 - (i) Open storage is screened and landscaped from view of abutting residential districts and/or uses in compliance with § 151.30;
 - (j) Upon termination of airport activities all accessory commercial activated shall cease and use development of the site shall conform to the applicable district regulations; and
 - (k) The provisions of § 151.71 are considered and satisfactorily met.
- (Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.54 R RESIDENTIAL DISTRICT.

- (A) The purpose of the R Residential District is to provide for single-family detached and 2-family residential dwelling units, townhouses, apartments, and multiple-family structures.
- (B) The following are permitted uses in an R District:
 - (1) Single-family detached dwellings;
 - (2) Multiple-family dwellings;
 - (3) Boarding (house) home - foster children: Restricted to children out of their own homes, age 16 years or under, or in the case of mental retardation age 21 or under, cared for 24 hours a day. The number to be cared for in 1 foster child boarding (house) home shall not exceed 5, not including the foster family's own children if they are school age;
 - (4) Day care home - Restricted to a family dwelling in which foster care, supervision, and training for children of school or pre-school age out of their own home is provided during part of a day (less than 24 hours) with no overnight accommodations or facilities and children are delivered and removed daily. The number to be cared for in 1 day care home shall not exceed 5, including the family's own non-school children. The regulations and conditions

of the Minnesota Department of Public Welfare, Public Welfare Manual 11.3130 as adopted, amended, and/or changed shall be satisfactorily met and a written indication of preliminary, pending or final license approval from the regulatory welfare agency shall be supplied to the city; and

(5) Public parks and playgrounds.

(C) The following are permitted accessory uses in an R District:

(1) Private garages, parking spaces, car ports for licensed and operable passenger cars and trucks not to exceed a gross capacity of 12,000 pounds, as regulated by § 151.33. Private garages are intended for use to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on;

(2) Recreational vehicles and equipment;

(3) Non-commercial greenhouse and conservatories;

(4) Swimming pools, tennis courts, and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests;

(5) Tool houses, sheds, and similar buildings for storage of domestic supplies and non-commercial recreational equipment; and

(6) Boarding or renting of rooms.

(D) The following are conditional uses in an R District: (Requires a conditional use permit based upon procedures set forth in and regulated by § 151.71.):

(1) Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:

(a) Side yards shall be double that required for the district, but no greater than 30 feet;

(b) Adequate screening from abutting residential uses and landscaping is provided in compliance with § 151.30;

(c) Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with § 151.33 and that the parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 151.30;

(d) Nursing homes and similar group housing; and

(e) The provisions of § 151.71 are considered and satisfactorily met.

(2) Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that:

(a) Conformity with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met;

(b) Equipment is completely enclosed in a permanent structure with no outside storage;

(c) Adequate screening from neighboring uses and landscaping is provided in compliance with § 151.30; and

(d) The provisions of § 151.71 are considered and satisfactorily met.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.55 R-M MOBILE HOME PARK DISTRICT.

(A) The purpose of the R-M Mobile Home Park District is to provide for mobile home uses and directly related uses.

(B) (1) The following are permitted uses in an R-M District: mobile home park.

(2) Mobile home park provisions:

(a) General provisions:

1. No mobile home for residential purposes on any site within the City of Fulda shall be permitted unless the site is part of an approved mobile home park or unless it is located on land purchased by the mobile home owner served by utilities as required by state law, and the land has been, prior to passage of this chapter, specifically developed and formally platted for the placement of mobile homes;

2. Mobile homes shall not be used for residential purposes in the city, if they:

a. Do not conform to the requirements of the Vehicle Code of the State of Minnesota;

b. Are in an un-sanitary condition or have an exterior in bad repair;

c. Are structurally unsound and do not protect the inhabitants against all elements; and/or

d. Do not have adequate sewage facilities as required by the City Council in accordance with Pollution Control Agency regulations.

3. All land areas shall be:

a. Adequately drained;

b. Landscaped to control dust; and

c. Clean and free from refuse, garbage, rubbish, or debris.

4. No tents shall be used for other than recreational purposes in a mobile home park;

5. There shall be no outdoor camping anywhere in a mobile home park;

6. Access to mobile home parks shall be as approved by the city;

7. All structures (fences, sidewalks, roads, storage, cabana, or other) shall require a building- permit from the Fulda Building Inspector;

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8. The area beneath a mobile home unit shall be enclosed except that the enclosure must have access for inspection;

9. Laundry and clothing shall be hung out to dry only on lines located in Council approved areas established and maintained exclusively for that purpose;

10. The mobile home park shall have an adequate central community building with the following features, unless individual unit provisions exist:

- a. Laundry drying areas and machines;
- b. Laundry washing machines;
- c. Showers; and
- d. Public toilets and lavatories.

11. The building shall have adequate heating and be maintained in safe, clean, and sanitary condition.

(b) Site plan requirements:

1. Legal description and size in acres of the proposed mobile home park;
2. Location and size of all mobile home sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites and all setback dimensions (parking spaces, exact mobile home sites, and the like);
4. Location and width of sidewalks;
5. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, and gas service;
6. Location and size of all streets abutting the mobile home park and all driveways from the streets to the mobile home park;
7. Road construction plans and specifications;
8. Plans for any and all structures;
9. The other information as required or implied by these mobile home park standards or requested by public officials;
10. Name and address of developer or developers;
11. Description of the method of disposing of garbage and refuse;
12. Detailed description of maintenance procedures and ground supervision; and
13. Details as to whether all of area will be developed at once or whether it will be developed a portion at a time.

(c) Design standards:

1. Site:
 - a. Each mobile home site shall contain at least 6,000 square feet of land area for the exclusive use of the occupant: width, no less than 60 feet depth; no less than 100 feet; and
 - b. Each mobile home site shall have frontage on an approved roadway and the corner of each mobile home site shall be marked and each site shall be numbered.
2. Individual mobile home unit setbacks:

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a. No unit shall be parked closer than 5 feet to its side lot lines nor closer than 20 feet to its front lot line, or within 10 feet of its rear lot line; and

b. No unit, off-street parking space, or building shall be located within 30 feet of the exterior boundary of any mobile home park.

3. Parking:

a. Each mobile home site shall have off-street parking space for 2 automobiles;

b. Each mobile home park shall maintain a hard surfaced off -street parking lot for guests of occupants in the amount of 1 space for each 5 mobile home sites; and

c. Access drives off roads to all parking spaces and coach sites shall be hard surfaced.

4. Utilities:

a. All mobile homes shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the City Council, the State Department of Health, and the Pollution Control Agency;

b. All installations for disposal of surface storm water must be approved by the city;

c. All utility connections shall be as approved by the city;

d. The source of fuel for cooking, heating, or other purposes at each mobile home site shall be as approved by the city;

e. All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes;

f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment;

g. The method of garbage, waste, and trash disposal must be approved by the city; and

h. Owner shall pay any required sewer connection fees to the city.

5. Internal roads and streets:

a. Roads shall be hard surfaced as approved by the city;

b. All roads shall have hard surfaced (mountable, roll type) curb and gutter; and

c. All streets shall be developed with a roadbed of not less than 24 feet in width. If parking is permitted on the street, then the roadbed shall be at least 36 feet in width.

6. Recreation: All mobile home parks shall have at least 10% of the land areas developed for recreational use (tennis courts,

children's play equipment, swimming pool, and the like) developed and maintained at the owner/operator's expense;

7. Landscaping:

a. Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks, and the like;

b. A compact hedge, redwood fence, or landscaping area shall be installed around the mobile home park and be maintained at all times as approved; and

c. All areas shall be landscaped in accordance with landscaping plan approved by the City Council.

8. Lighting: Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.

(C) The following are permitted accessory uses in an R-M District:

(1) Recreational vehicles and equipment; and

(2) Swimming pools, tennis courts, and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.56 B GENERAL BUSINESS DISTRICT.

(A) The purpose of the B General Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region.

(B) The following are permitted uses in a B District:

(1) Retail sales;

(2) Commercial recreation;

(3) Copy service;

(4) Costume, clothes rental;

(5) Dry cleaning, including plant accessory heretofore, pressing and repairing;

(6) Electrical appliance stores including incidental repair and assembly;

(7) Employment agencies;

(8) Finance companies;

(9) Restaurants, tea rooms, cafes, and on and off-sales liquor;

(10) Sewing machine sales and service;

(11) Shoe sales and repair service;

(12) Tailor shops;

(13) Theatres, not of the outdoor drive-in type;

(14) Travel bureaus, transportation ticket offices;

(15) Governmental and public utility building;

(16) Bank, savings and loan, savings credit unions and other financial institutions;

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(17) Dry cleaning pick-up and laundry pick-up stations including incidental repair and assembly but not including processing;

(18) Locksmith;

(19) Plumbing, television, radio, electrical sales and the repair as are accessory use to the retail establishment permitted within this district; and

(20) Public utility collection offices.

(C) The following are conditional uses in a B District; (Requires a conditional use permit based upon procedures set forth in and regulated by this chapter.):

(1) Open and outdoor storage as an accessory use, provided that:

(a) The area is fenced and screened from view of neighboring residential uses or if abutting a residential district in compliance with § 151.30;

(b) Storage is screened from view from public right-of-way in compliance with § 151.30;

(c) Storage area is grassed or surfaced to control dust;

(d) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with this chapter; and

(e) The provisions of § 151.71 are considered and satisfactorily met.

(2) Open or outdoor service, sale, and rental as an accessory use:

(a) Outside service, sales, and equipment rental connected with the principal use is limited to 30% of the gross floor area of the principal use;

(b) Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting district in compliance with this chapter;

(c) All lighting shall be hooded so directed that the light source shall be visible from the public right-of-way or from neighboring residences and shall be in compliance with this chapter;

(d) Sales area is grassed or surfaced to control dust; and

(e) The provisions of § 151.71 are considered and satisfactorily met.

(Ord. 113, passed 12-4-1978) Penalty, see § 10.99

§ 151.57 I GENERAL INDUSTRIAL DISTRICT.

(A) The purpose of the I General Industrial District is to provide for the establishment of warehousing and light industrial development.

(B) The following are permitted uses in an I District:

(1) Radio and television;

(2) Research laboratories;

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- (3) Trade school;
 - (4) Machine shops;
 - (5) Warehouses;
 - (6) Essential services;
 - (7) Governmental and public utility buildings and structures;
 - (8) Manufacturing, compounding, assembly packaging, or treatment of pre-prepared or pre-fabricated products or materials;
 - (9) Welding or other metal shops;
 - (10) Laundries, carpet and rug cleaning;
 - (11) Bottling establishments;
 - (12) Building material sales and storage;
 - (13) Cartage and express facilities;
 - (14) Stationary, bookbinding and other types of manufacturing of paper and related products, but not processing of raw material for paper production;
 - (15) Electric light or power stations, electrical and electronic products manufacture, electrical service shops;
 - (16) Engraving, printing and publishing; and
 - (17) Wholesale business and office establishments.
- (C) The following are permitted accessory uses in an I District: All permitted accessory uses as allowed in the B District.
(Ord. 113, passed 12-4-1978)

ADMINISTRATION

§ 151.70 ENFORCEMENT.

- (A) *Administering officer.* This chapter shall be administered and enforced by the Zoning Officer who shall be appointed by the City Council.
- (B) *Duties of the Building Inspector.* The Building Inspector shall enforce this chapter through the proper legal channels and in addition therefore and, in furtherance of the authority, he or she shall:
- (1) Determine that all building permits comply with the terms of this chapter;
 - (2) Issue certificates of occupancy for any use, structure, or building after determination of above;
 - (3) Maintain permanent and current records of this chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefor;
 - (4) Receive, file, and forward all applications for appeal, variances, conditional uses, and other matters to the designated official bodies; and

(5) Institute in the name of the City of Fulda any appropriate actions or proceedings against a violator as provided by law.
(Ord. 113, passed 12-4-1978)

§ 151.71 AMENDMENTS AND CONDITIONAL USE PERMITS.

(A) *Procedure.*

(1) Request for amendments or conditional use permits, as provided within this chapter, shall be filed with the city on an official application form. The application shall be accompanied by a fee as outlined in § 151.74. This fee shall not be refunded. The application shall also be accompanied by 3 copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The City Clerk-Treasurer shall refer the application, along with all related information, to the City Planning Commission for consideration and a report and recommendation to the City Council.

(2) The Planning Commission shall consider the request at its next regular meeting unless the filing date falls within 15 days of the meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting.

(3) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.

(4) The amendment or conditional use application shall be referred to the city staff for a report and recommendation to be presented to the Commission. The city staff's report and recommendations shall be given to the City Planning Commission at least 10 days prior to the meeting at which the report and recommendations are to be presented. The report and recommendations of the city staff is to be entered in and made part of the permanent written record of the Planning Commission meeting.

(5) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgement shall be based upon (but not limited to) the following factors:

- (a) Relationship to adopted municipal plans;
- (b) The geographical area involved;
- (c) Whether the use will tend to or actually depreciate the area in which it is proposed;
- (d) The character of the surrounding area; and
- (e) The demonstrated need for the use.

(6) The Planning Commission shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, the information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(7) The City Council shall not grant a conditional use permit until they have received a report and recommendation from the Planning Commission or until 60 days after the first regular Planning Commission meeting at which the request was considered.

(8) Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter.

(9) The Planning Commission shall make a finding of fact and recommend the actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. The recommendation shall be in writing and accompanied by the report.

(10) The Planning Commission shall set a date for a public hearing. Notice of the hearing shall be published in conformance with the state law and individual notices, if it is a district change or conditional use permit request, shall be mailed not less than 10 days not more than 30 days prior to the hearing to all owners of property, according to the Murray County assessment records, within 150 feet of the parcel included in the request.

(11) Upon receiving the report and recommendation of the Planning Commission, the City Council shall place the report and recommendation on the agenda for the next regular meeting. The reports and recommendation shall be entered in and made part of the permanent written record of the City Council meeting.

(12) Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and shall impose any condition it considers necessary to protect the public health, safety, and welfare.

(13) Approval of a request shall require passage by a 4/5 vote of the full City Council.

(14) The Zoning Administrator shall notify the applicant of the Council's decision in writing.

(B) *Amendments; initiation.* The City Council or Planning Commission may, upon their own motion initiate a request to amend the text or the district boundaries of this chapter. Any person owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate.

(C) *Conditional use permit.*

(1) *Purpose.* The purpose of a conditional use permit is to provide the City of Fulda with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public safety, and health. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises, or on any adjoining roads, and all the other or further factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health, and safety.

(2) *Reconsideration.* Whenever an application of a conditional use permit has been considered and denied by the City Council, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional 6 months from the date of the second denial unless a decision to reconsider the matter is made by not less than 4/5 vote of the full City Council.

(3) *Lapse of conditional use permit by non-use.* Whenever within 1 year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, then the permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the City Clerk-Treasurer at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(4) *Performance bond.* The City Council may require a performance bond where appropriate.

(a) Except in the case of non-income producing residential property, upon approval of a conditional use permit the city shall be provided with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. The security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the city.

(b) The security shall be in the amount of the City Engineer's or City Building Inspector's estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages upon the discretion of the City Engineer and Building Inspector.

(c) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinance of the city has been issued by the City Building Inspector.

(d) Failure to comply with the conditions of the conditional use permit and/or the ordinances of the city shall result in forfeiture of the security.

(Ord. 113, passed 12-4-1978)

§ 151.72 VARIANCES AND APPEALS.

(A) The City Council shall act as a Board of Adjustment and Appeals.

(B) All written reports and recommendations to the City Council serving as the Boards of Adjustments and Appeals from the Planning Commission shall be entered in and made part of the permanent written record of the Board's meeting.

(C) In considering all requests for a variance or appeal, and in taking subsequent action, the Planning Commission and the City Council serving as the Board of Adjustment and Appeals shall make a finding of fact that the proposed action will not:

- (1) Impair an adequate supply of light and air to adjacent property;
 - (2) Unreasonably increase the congestion in the public street;
 - (3) Increase the danger of fire or endanger the public safety;
- and
- (4) Unreasonably diminish or impair established property values within the neighborhood, or in any other way be contrary to the intent of this chapter.

(D) The City Council serving as the Board of Adjustment and Appeals shall, after receiving the written reports and recommendations of the Planning Commission, make a finding of fact and decide upon requests for a variance by approving or denying the same, in part or in whole, where it is alleged by the applicant that a non-economic hardship in the reasonable use of a specified parcel of property exists. A hardship that by some reason of narrowness, shallowness or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter or that by reason of exceptional topographic or water conditions of a specific parcel of land or lot, the strict application of the terms of this chapter would result in exceptional difficulties when utilizing the parcel or lot in a manner customary and legally permissible within the district in which the lot or parcel is located. Should the City Council find that the conditions outlined heretofore apply to the proposed lot or parcel, the Council may grant a variance from the strict application of this chapter so as to relieve the difficulties or hardships to the degree considered reasonable, provided the relief may be granted without impairing the intent of this Zoning Ordinance. The Planning Commission shall have the power to advise and recommend the conditions related to the variance regarding the location, character and other features of the proposed building, structures, or use as it may deem advisable in the interest of the intent and purpose of this chapter.

(E) The City Council serving as the Board of Adjustments and Appeals shall, after receiving the written report and recommendation of the Planning Commission, make a finding of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, requirement, decision or determination made by the Building Inspector in the enforcement of this chapter. However, the appeal shall be filed not later than 90 days after the applicant has received a written notice from the Building Inspector or the appeal shall be considered void.

(F) (1) Requests for a variance or appeal shall be filed with the city on an official application form. The application shall be accompanied by a fee

as outlined in § 151.74. This fee shall not be refunded. The application shall also be accompanied by 3 copies of detailed written and graphic materials necessary for the explanation of the request.

(2) Upon receiving the application, the City Clerk-Treasurer shall refer the application, along with all related information, to the City Planning Commission for a report and recommendation to the Board of Adjustment and Appeals.

(3) The Planning commission shall consider the variance or appeal at its next regular meeting unless the filing date falls within 15 days of the meeting, in such a case the request would be placed on the agenda at the regular meeting following the next regular meeting.

(4) The Planning Commission at the next regular meeting allowing the regular meeting at which the request was first considered, shall make a finding of fact and decide to recommend approval or denial of request. The Planning Commission shall reach a decision within 60 days after the first regular meeting at which the variance or appeal request was considered by the Commission. The Commission's recommendation shall be presented to the City Council serving as the Board of Adjustment and Appeals at its next regular meeting.

(5) Within 60 days after receiving the Planning Commission's recommendations concerning a request for variance or an appeal, the City Council serving as the Board of Adjustment and Appeals shall set a date and hold a hearing on the request, the Board shall hear the persons as wish to be heard, either in person or by agent or attorney. Notice of any such hearing shall be mailed not less than 10 days before request, to all owners of property according to the Murray County Assessment records within 150 feet of the property to which variance relates.

(6) Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter.

(7) The City Council serving as the Board of Adjustment and Appeals shall make a finding of fact and shall decide whether to approve or deny a request for a variance or an appeal within 30 days after the public hearing on the request.

(8) A variance of this Zoning Ordinance or grant of an appeal shall be by 4/5 vote of the full City Council serving as the Board of Adjustment and Appeals.

(9) The City Clerk-Treasurer shall notify the originator of the variance request or appeal of the City Council's, serving as the Board of Adjustment and Appeals, decision in writing.

(G) Whenever within 1 year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed, then the variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the City Clerk-Treasurer at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of the petition. The request for extension shall

state facts showing a good faith attempt to complete the work permitted in the variance or appeal. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(H) The City Council may require a performance bond where appropriate.

(1) Except in the case of non-income producing residential property, upon approval of a variance or appeal the city shall be provided with a surety bond, cash escrow, certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. The security shall guarantee conformance and compliance with the conditions of the variance or appeal and the ordinances of the city.

(2) The security shall be in the amount of the City Engineer's or Building Inspector's estimated costs of labor and materials for the proposed improvements or development.

(3) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and ordinances of the city has been issued by the City Building Inspector.

(4) Failure to comply with the conditions of the variance or appeal and/or ordinances of the city shall result in forfeiture of the security. (Ord. 113, passed 12-4-1978)

§ 151.73 CERTIFICATE OF OCCUPANCY.

(A) Except for farm buildings, no building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of the occupancy shall have been issued by the Building Inspector stating that the building or structure complies with all of the provisions within this chapter.

(B) The certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance and shall be issued within 10 days after the Building Inspector shall have found the building or structure satisfactory and given final inspection. The application shall be accompanied by a fee as outlined in § 151.74.

(C) Construction performed pursuant to the provisions of the ordinances establishing and regulating building codes of the City of Fulda shall not be subject to the requirement of a certificate of occupancy established by this chapter.

(Ord. 113, passed 12-4-1978)

§ 151.74 FEES.

(A) To defray administrative costs of processing of requests for conditional uses, amendments, variances, or appeals, a zoning permit fee shall be paid by all applicants. The associated permit fees shall be set by the City Council in accordance with § 32.02 Master Fee Schedule Establishment Appendix A, and shall be adjusted from time to time.

(B) Fees shall be payable at the time applications are filed with the City Clerk-Treasurer and are not refundable unless application is withdrawn prior to referral to the Planning Commission.

(C) The fee for certification of occupancy shall be \$10 per application. (Ord. 113, passed 12-4-1978; Amended 12-2-2013)

CHAPTER 152: ZONING CODE EXPANDED

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GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter shall be known and may be cited and referred to as the City of Fulda, when referred to herein, it shall be known as this chapter.
(Ord. 157, passed 4-20-1992)

§ 152.02 PURPOSES AND INTENT.

This chapter is enacted for the following purposes: to promote the health, safety, and general welfare throughout the City of Fulda lessening congestion in the public rights-of-way, securing safety from fire, panic, and other dangers, providing adequate light and air; facilitating the adequate provision of water, sewerage, and other public requirements; conserving the value of properties and encouraging the most appropriate use of land; pursuant to the authorization and policies contained in M.S. Ch. 103A through 103G, Minn. Rules, parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in M.S. Ch. 462, as they may be amended from time to time.
(Ord. 157, passed 4-20-1992)

§ 152.03 JURISDICTION.

The jurisdiction of this chapter shall apply to all the area of the City of Fulda.
(Ord. 157, passed 4-20-1992)

§ 152.04 RULES AND DEFINITIONS.

(A) *Rules.* For purposes of this chapter, certain terms or words used herein shall be interpreted as follows.

(1) The word **PERSON** includes a **FIRM**, **ASSOCIATION**, **ORGANIZATION**, **PARTNERSHIP**, **TRUST**, **COMPANY**, or **CORPORATION** as well as an **INDIVIDUAL**.

(2) The words **SHALL** and **MUST** are mandatory, and not discretionary, the word **MAY** is permissive.

(3) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.

(4) The term **USED FOR** shall include the phrases **ARRANGED FOR, DESIGNED FOR, INTENDED FOR, MAINTAINED FOR, and OCCUPIED FOR.**

(5) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is 1/2 foot or less, the integral foot next below shall be taken.

(B) **Definitions.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE OR FACILITY. A use, structure, or facility on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

ACCESSORY USE. A use clearly incidental or subordinate to the principal use of a lot or a building located on the same lot as the principal use.

AGRICULTURE. The cultivation of the soil and activities incident thereto; the growing of soil crops in the customary manner on open tracts of land or other growing methods; the raising of livestock or poultry; farming. The term shall include incidental retail selling by the producer of products raised on the premises.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST. An owner or manager occupied dwelling in which a room or rooms, forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes, which are rented on a nightly basis for periods of less than a week. Meals may or may not be provided.

BOARD OF ADJUSTMENT. The Fulda City Council, created by this chapter, whose responsibility it is to hear appeals from decisions of the Zoning Board and to consider requests for variances permissible under the terms of this chapter.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUILDING. Any structure for the shelter, support, or enclosure of persons, animals, chattel, or property of any kind; and when separated by party walls without openings, each portion of the buildings so separated shall be deemed a separate building.

BUILDING HEIGHT. The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING LINE. A line parallel to a lot line or the normal high water level at the required setback beyond which a structure may not extend.

BUILDING SETBACK LINE. A line within a lot or other parcel of land parallel to a public road, street, or highway right-of-way line defining that distance between the building and property line which buildings or structures may not be placed.

CITY. The City of Fulda, Minnesota.

CITY COUNCIL. Includes the Fulda City Council, the City Council or any other word or words meaning the Fulda City Council.

COMMERCIAL PLANNED UNIT DEVELOPMENTS. Typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

CONDITIONAL USE. A land use or development as is defined by this chapter that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that:

- (a) Certain conditions as detailed in this chapter exist;
- (b) Use or development conform to the comprehensive plan of the city; and
- (c) Is compatible with the existing neighborhood.

CONDITIONAL USE PERMIT. A permit issued by the City Council in accordance with procedures specified in this chapter which would enable the Board to assign dimensions to a proposed use or conditions surrounding it.

COUNTY. Murray County, Minnesota.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than 3 feet above ground.

DEPTH OF LOT. The mean horizontal distance between the mean front street line and the mean rear lot line.

DEPTH OF REAR YARD. The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

DNR COMMISSIONER. The Commissioner of the Minnesota Department of Natural Resources.

DWELLING SITE. A designated location for residential use by 1 or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. Two or more rooms within a structure which are arranged, designed, or used as short or long term living quarters for 1 family only. Individual bathrooms and complete kitchen facilities, permanently installed shall be included for each dwelling. A mobile home with the above accommodations located in areas approved for mobile homes; and motel, hotel, and resort rooms and cabins shall be considered a dwelling unit. A travel trailer,

house trailer, camper trailer, or tent are not considered dwelling units, except as allowed in Chapter 151.

(a) **DWELLING, FARM.** A dwelling located on a farm which the residents of the dwelling either owns, operates, or is employed thereon.

(b) **DWELLING, NON-FARM.** A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which is the resident of the dwelling neither operates nor is employed thereon.

(c) **DWELLING, SINGLE-FAMILY.** A free standing (detached) residence designed for/or occupied by 1 family only.

(d) **DWELLING, DUPLEX, TRIPLEX, AND QUAD.** A dwelling structure on a single lot, having 2, 3, and 4 units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

ESSENTIAL SERVICES. Any surface, overhead or underground electric, gas transportation, hydro-carbon, steam, water, or refuse transmission, distribution or collection system operated by any utility company or governmental agency.

(a) **MINOR ESSENTIAL SERVICE FACILITIES.** Any essential service line or structure located within any city easement or city right-of-way and providing single service distribution lines, i.e., single service electrical distribution lines, (less than 35 KV), other single service distribution lines (telephone and gas), shall not require a conditional use permit, however, the service facilities shall be governed by the procedures described herein.

(b) **MAJOR ESSENTIAL SERVICE FACILITIES.** Any essential service line or structure providing transmission services, i.e., utility service such as high voltage (greater than 35 KV) electrical power or bulk gas or fuel being transferred from station to station and not intended for en route consumption shall require a conditional use permit as regulated in § 152.56 in addition to being governed by the procedures described herein.

ESSENTIAL SERVICE LINE. Any primary or subsidiary conductor designed or utilized for the provision or maintenance of essential services including any pole, wire, drain, main, sewer, pipe, conduit, cable, fire hydrant, fire alarm box, police call box, right-of-way but not including any structure.

ESSENTIAL SERVICE STRUCTURE. Any appurtenant structure required to be on line to accommodate the proper provision or maintenance of essential services, including any electric substation, water tower, sewage lift station, or other similar facility.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 through 93.51, as they may be amended from time to time.

FAMILY. Any number of individuals living together on the premises or a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel.

FEEDLOT. Lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this chapter, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these rules. The Minnesota Pollution Control Agency's Rules For The Control Of Pollution From Animal Feedlots are adopted by reference in this chapter.

FEEDLOT, COMMERCIAL. An enclosure for the purpose of custom feeding livestock and poultry which is not an accessory use to a farming operation.

GROSS FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, the exterior faces of exterior walls, or from the center line of party walls separating 2 buildings; the term does not include basements used for storage purposes or enclosed spaces used for off-street parking.

HARDSHIP. The same as defined in M.S. Ch. 394, as it may be amended from time to time.

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

HIGHWAY. Any public thoroughfare or vehicular right-of-way with a federal or state numerical route designation; any public thoroughfare or vehicular right-of-way with a Murray County numerical route designation.

HOME OCCUPATION. Any occupation which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of the secondary use.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

JUNK YARD. An open area where used, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to scrap iron, and other metals, paper, rages, rubber products, bottles, and used building materials. Storage of materials in conjunction with construction or manufacturing process shall not be included. The use shall not include mixed municipal solid waste as defined.

LOT. A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with the yards, open spaces, lot width, and lot area as are required by this chapter, and having the required frontage upon the street, either shown and identified by lot number

on a plat of record or considered as a unit of property and described by metes and bounds.

LOT AREA. The area of a lot on a horizontal plane bounded by the lot lines.

LOT, CORNER. A lot located at the intersection of 2 streets, having 2 adjacent sides abutting streets; the interior angle of the intersection does not exceed 135 degrees.

LOT FRONTAGE. The portion of the lot boundary having the least width abutting on the street right-of-way.

LOT LINES. The lines bounding a lot as defined in this chapter.

LOT OF RECORD. Any lot which has been recorded in the Office of the County Recorder prior to the adoption of this chapter.

LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

MIXED MUNICIPAL SOLID WASTE. Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

MOBILE HOME. A single-family dwelling designed to be moved by being built on a frame or chassis and further specifically designed and constructed so that the wheels are, or may be attached for transportation on public streets, or highways, and designed without the need for permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundations, excluding basement or cellar, connection to the utilities, and the like.

MOTEL. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

NONCONFORMING USE. A use lawfully in existence on the effective date of this chapter and not conforming to the regulations for the district in which it is situated.

NONCONFORMITY. Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.

NORMAL HIGH WATER LEVEL OR MARK. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. **NORMAL HIGH WATER MARK** is commonly the point where the natural vegetation changed from predominantly aquatic to predominantly terrestrial. For watercourses, the **NORMAL HIGH WATER MARK** is the elevation of the top of the bank of the channel. For

reservoirs and flowages, the **NORMAL HIGH WATER MARK** is the operating elevation of the normal pool.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile, or sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, or lake bed which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

OWNER. Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity having proprietary interest in the land.

PERMITTED USE. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district.

PLANNED UNIT DEVELOPMENT (PUD). A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

PRIMARY USE. The predominant use of the land or buildings as distinguished from subordinate or accessory uses. A primary use may be either permitted or conditional.

PRODUCE STAND. A structure which is readily movable and used or intended to be used only for the display or sale of seasonal agricultural or farming products (raised on the premises), including fruits and vegetables. The term shall include the incidental retail selling by the producer of products on the premises, provided that space necessary for parking of vehicles of customers shall be furnished of the public right-of-way (as regulated).

PUBLIC WATER. Any waters as defined in M.S. § 103G.005, Subd. 14 and 15, as they may be amended from time to time. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of these regulations, any body of water which has the potential to support any type of recreational pursuit or water supply purpose.

RECYCLING. The process of collecting and preparing recyclable materials and reusing the material in their original form or using them in manufacturing processes that do not cause the destruction of recyclable material in a manner that precludes further use. In addition, recycling means yard waste composting and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in

manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

RECYCLING FACILITY. A site used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a **RESIDENTIAL PLANNED UNIT DEVELOPMENT**, a development must contain at least 5 dwelling units or sites.

SEMI-PUBLIC USE. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SEPTAGE. Has the meaning given it in Minn. Rules, part 7080.0020, subpart 31.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an normal high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE SLUDGE. Has the meaning given it in M.S. § 115.03, Subd. 29, as it may be amended from time to time.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in this chapter.

SEWER SYSTEM. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the normal high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. Land located within the following distances from the public waters: 1,000 feet from the normal high water mark of a lake, pond, or flowage; and 300 feet from a river or stream or the landward extension of a

flood plain designated by this chapter on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which may extend landward from the waters for lesser distances and when approved by the DNR Commissioner and the City of Fulda.

SHORELAND SETBACK. The minimum horizontal distance between a structure and the normal high water mark.

SIGN. The use of any words, numerals, pictures, figures, devices, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business and are visible to the general public.

(a) **ADVERTISING (OFF-PREMISE SIGN).** A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located.

(b) **BUSINESS SIGN.** Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used as the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

(c) **CONSTRUCTION SIGN.** A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.

(d) **DIRECTIONAL SIGN.** Sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.

(e) **DIRECTORY SIGN.** A wall sign which identifies the business, owner, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising.

(f) **FREE STANDING SIGN.** Any stationary or portable, self supported sign not affixed to any other structure.

(g) **GOVERNMENT SIGN.** A sign which is erected by a governmental unit.

(h) **ILLUMINATED SIGN.** Any sign which is lighted by artificial light source either directed upon it or illuminated from an interior source.

(i) **INSTITUTIONAL SIGN.** A sign or bulletin board which identifies a name or other characteristics of a public or private institution on the site where the sign is located.

(j) **INTEGRAL SIGN.** A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like carved into stone, concrete or similar material made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

(k) **NAMEPLATE SIGN.** A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

(l) **REAL ESTATE SIGN.** A business sign placed upon a property advertising that particular property for sale, or for rent or lease.

(m) **SIGN AREA.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of the sign and not forming an integral part of the display. Only 1 side of a double face sign structure shall be used in computing the total surface area.

SIGNIFICANT HISTORICAL SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's solid characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Chapter 151 and other similar items.

SUBDIVISION. Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of the use.

TRAVEL TRAILER. A vehicle 40 feet or less with or without motor power adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term **TRAILER** shall include camp car, camp bus, camper, house car, and travel vehicle. A permanent foundation shall not change its character unless the entire structure is erected in accordance with the Minnesota Building Code.

UNINCORPORATED AREA. The area outside an incorporated city, village, or borough.

USE. The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

VARIANCE. The waiving by the Zoning Board of the literal provisions of this chapter in cases where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property involved. **VARIANCES** shall be limited to height, bulk, density, and yard requirements.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

WIDTH OF LOT. The mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.

YARD. The space in the same lot with a building open and unobstructed from the ground to the sky.

(a) **FRONT YARD.** The area extending across the front of the lot between the side yard lines and lying between the center line of the road or highway and the nearest line of the building.

(b) **REAR YARD.** The space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.

(c) **SIDE YARD.** An open unoccupied space on a lot between the main building and the side line of the lot, extending from the front to the rear of the main building.

ZONING ADMINISTRATOR. The duly elected person, selected from the membership of the Fulda City Council and appointed by the Mayor, charged with the enforcement of this chapter.

ZONING BOARD. The duly appointed Zoning Board of the City Council.

ZONING DISTRICT. The section of the city for which the regulations governing the height, area, use of buildings, and premises are the same as delineated by this chapter.
(Ord. 157, passed 4-20-1992)

§ 152.05 EFFECTIVE DATE.

This chapter shall be in full force and effect from the after its passage, approval, and publication, as provided by law.
(Ord. 157, passed 4-20-1992)

GENERAL REGULATIONS

§ 152.20 NONCONFORMING BUILDINGS AND USES.

(A) *Generally.* All legally established nonconformities which were lawful before the passage or amendment of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this county for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas.

(B) *Construction on nonconforming lots of record.*

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet this chapter may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this chapter the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal 1 or more parcels of land, each meeting the requirements of § 152.28 as much as possible.

(C) *Additions/expansions to nonconforming structures.*

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this subchapter. Any deviation from these requirements must be authorized by a variance pursuant to § 152.57.

(2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the normal high water level if all of the following criteria and standards are met:

(a) The structure existed on the date the structure setbacks were established;

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing normal high water level setback of the structure;

(c) The deck encroachment toward the normal high water level does not exceed 15% of the existing setback of the structure from the normal high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(d) The deck is constructed primarily of wood, and is not roofed or screened.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.21 SUBDIVISION/PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision, including planned unit developments authorized under § 152.28, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the city.

(B) *Consistency with other controls.* Subdivisions must conform to all official controls of this city. A subdivision will not be approved where a later variance from 1 or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with §§ 152.22 and 152.29 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 152.27, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *Information requirements.* Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

(1) Topographic contours at 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.02, Subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soil information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps of data; and

(6) A line or contour representing the normal high water level, the toe and the top of steep slopes, and the minimum building setback distances from the lake or stream.

(D) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding area for management of stormwater and significant wetlands.

(E) *Platting.* All subdivisions that create 5 or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in § 152.27.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.22 PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.

(A) *Placement of structures on lots.* When more than 1 setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the normal high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

(B) *Structure and on-site sewage system setbacks (in feet) from normal high water level*.*

Classes of Public Waters	Setbacks*		
	Unsewered Structures	Sewered Structures	Sewage Treatment System
Lakes - General Development	75	50	50

* One water-oriented accessory structure designed in accordance with this subchapter may be set back a minimum distance of 10 feet from the normal high water level.

(C) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody.

Setback From:	Setback (in feet)
Unplatted Cemetery	50
Right-of-Way Line of Federal, State, or County Highway	50
Right-of-Way Line of Town Road, Public Street, or Other Roads or Streets Not Classified	30

(D) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.23 DESIGN CRITERIA FOR STRUCTURES.

(A) *High water elevations.* Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(1) For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the normal high water level, whichever is higher; and

(2) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(B) *Water-oriented accessory structures.* Each lot may have 1 water-oriented accessory structure not meeting the normal structure setback in § 152.22 if this water-oriented accessory structure complies with the following provisions.

(1) The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point.

(2) The setback of the structure or facility from the normal high water level must be at least 10 feet.

(3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions.

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(6) As an alternative for general development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(C) *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(3) Canopies or roofs are not allowed on stairways, lifts, or landings;

(4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

(5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

(6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of this section are complied with in addition to the requirements of M.S. Rules, Ch. 1340, as it may be amended from time to time.

(D) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(E) *Steep slopes.* The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways,

structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(F) *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.24 SHORELAND ALTERATIONS.

(A) *Generally.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(B) *Vegetation alterations.*

(1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by § 152.25 are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this chapter and respectfully, is allowed subject to the following standards.

(a) Intensive vegetation clearing within the shore impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.

(b) In shore impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
2. Along rivers, existing shading of water surfaces is preserved; and
3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(C) *Topographic alterations/grading and filling.*

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(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this subchapter must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Public roads and parking areas are regulated by § 152.25.

(3) Notwithstanding divisions (C)(1) and (C)(2) above, a grading and filling permit will be required for:

(a) The movement of more than 10 cubic yards of material on steep slopes or within shore impact zones; and

(b) The movement of more than 50 cubic yards of material outside of steep slopes and shore impact zones.

(4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

(a) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. (This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.):

1. Sediment and pollutant trapping and retention;
2. Storage of surface runoff to prevent or reduce flood damage;
3. Fish and wildlife habitat;
4. Recreational use;
5. Shoreline or bank stabilization; and
6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(b) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(c) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(f) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(g) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;

(h) Any alterations below the normal high water level of public waters must first be authorized by the DNR Commissioner under M.S. § 103G.245, as it may be amended from time to time;

(i) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(j) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to 1 foot vertical, the landward extent of the riprap is within 10 feet of the normal high water level, and the height of the riprap above the normal high water level does not exceed 3 feet.

(5) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the DNR Commissioner has approved the proposed connection to public waters. (Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.25 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS.

(A) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public water consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(B) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(C) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of § 152.28 must be met. (Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.26 STORMWATER MANAGEMENT.

(A) *Generally.* The following general and specific standards shall apply.

(B) *General standards.*

(1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(C) *Specific standards.*

(1) Impervious surface coverage of lots must not exceed 25% of the lot area.

(2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.27 LOT AREA AND WIDTH STANDARDS.

(A) *Generally.* The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after the date of enactment of this chapter for the lake and river/stream classifications are the following.

(1) *Unsewered lakes.*

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

(2) *Sewered lakes.*

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	15,000	100	10,000	100
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

(3) *River/stream lot width standards.* There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex, and quad residential developments for the river/stream classification is:

Single	150
Duplex	225
Triplex	300
Quad	375

(B) *Additional special provisions.*

(1) Residential subdivisions with dwelling unit densities exceeding those in the tables in this section can only be allowed if designed and approved as residential planned unit developments, PUDs, under § 152.28. Only land above the normal high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the normal high water level and at the building line. The sewer lot area dimensions in this section can only be used if publicly owned sewer system service is available to the property.

(2) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards.

(a) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

(b) If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of Lake Size to Shore Length (Acres/Mile)	Required Increase in Frontage (Percentage)
Less than 100	25

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100 - 200	20
201 - 300	15
301 - 400	10
Greater than 400	5

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

(d) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.28 PLANNED UNIT DEVELOPMENTS (PUDs).

(A) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in this subchapter and the Official Zoning Map.

(B) *Processing of PUDs.* Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this chapter was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in this section. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(C) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems

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(where public systems will not be provided), and topographic contours at 10-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the 2;

(2) A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of this section;

(3) Deed restrictions, covenants, permanent easements, or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (F) below.

(4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and

(5) Those additional documents are requested by the Zoning Administrator/Zoning Board that are necessary to explain how the PUD will be designed and will function.

(D) *Site suitable area evaluation.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in division (E) below.

(1) The project parcel must be divided into tiers by locating 1 or more lines approximately parallel to a line identifies the normal high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions		
	Unsewered (Feet)	Sewered (Feet)
General development lakes - first tier	200	200
General development lakes - second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

(2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, or land below the normal high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(E) *Residential and commercial PUD density evaluation.* The procedures for determining the base density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) *Residential PUD base density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for river which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in this chapter.

(2) *Commercial PUD base density evaluation.*

(a) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space;

(b) Select the appropriate floor area ratio from the table on the following page;

(c) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites;

(d) Divide the total floor area by tier computed in this section by the average inside living area size determined in division (E)(2)(c) above. This yields a base number of dwelling units and sites for each tier; and

(e) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density, and suitability analyses herein and the design criteria in division (F) below:

Commercial Planned Unit Development	
Floor Area Ratios*	
Public Waters Classes	
Average Unit Floor Area (sq. ft.)*	Sewered General Development Lakes; First Tier on Unsewered General Development Lakes; Urban, Agricultural, Tributary Segments
1,000	.108
1,100	.116
1,200	.125
1,300	.133
1,400	.142
1,500	.150
* For average unit floor areas less than shown, use the floor area ratios listed for 200	

square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

(3) *Density increase multipliers.*

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in §§ 152.22, 152.23, 152.27 are met or exceeded and the design criteria in this section are satisfied. The allowable density increases in this section will only be allowed if structure setbacks from the normal high water level are increased to at least 50% greater than the minimum setback, or the impaction the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increase Within Each Tier (Percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

(a) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b) Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited; and
4. Uncontrolled beaching of watercraft prohibited.

(c) Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

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1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
 3. Assessments must be adjustable to accommodate changing conditions; and
 4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- (2) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:
- (a) At least 50% of the total project area must be preserved as open space;
 - (b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
 - (c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - (e) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
 - (f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
 - (g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - (h) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the shore impact zone must be preserved in its natural state.
- (3) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:
- (a) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to

minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with this section.

(4) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards:

(a) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and §§ 152.22 and 152.29. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

(b) Dwelling units or sites must be clustered into 1 or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the normal high water level, elevation above the surface water features, and maximum height. Setbacks from the normal high water level must be increased in accordance with this section for developments with density increases;

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed 1 for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(e) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in §§ 152.22 and 152.23 and are centralized.

(G) *Conversions.* Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

(1) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore impact zones;

(b) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) If existing dwelling units are located in shore impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in this section may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.29 WATER SUPPLY AND SEWAGE TREATMENT.

(A) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

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(B) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows.

(1) Public-owned sewer system must be used where available.

(2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, Individual Sewage Treatment Systems Standards, Chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(3) On-site sewage treatment systems must be set back from the normal high water level in accordance with the setbacks contained in this subchapter.

(4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in divisions (B)(1) through (B)(4). If the determination of a site's suitability cannot be made with publicly available existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation test from on-site field investigations. Evaluation criteria:

(a) Depth to the highest known or calculated ground water table or bedrock;

(b) Soil conditions, properties, and permeability;

(c) Slope; and

(d) The existence of lowlands, local surface depressions, and rock outcrops;

(5) Nonconforming sewage treatment systems will be regulated and upgraded in accordance with this division (B)(5).

(a) A sewage treatment system not meeting the requirements of this section must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the normal height water level.

(b) The governing body of the City of Fulda has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 2 years. Sewage systems installed according to applicable local shoreland management standards adopted under M.S. §§ 103F.201 through 103F.221, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

DISTRICTS

§ 152.40 CLASSIFICATION OF DISTRICT.

For the purpose of this chapter, the City of Fulda is hereby divided into classes of districts, which shall be designated as follows.

- (A) A Agricultural District;
- (B) R Residential Recreational District;
- (C) RM Mobile Home Park District;
- (D) B General Business District;
- (E) I Industry District;
- (F) H Historical District; and
- (G) S Shoreland Management District.

(Ord. 157, passed 4-20-1992)

§ 152.41 MAPS.

(A) *Generally.* The following maps are all part of the Official Zoning Map.

(B) *Zoning Map.* The location and boundaries of the districts established by this chapter are hereby set forth on the zoning map, and the map is hereby made a part of this chapter; the map shall be known as the City Zoning Map. The map consisting of all notations, references, and data shown thereon is hereby incorporated by reference into this chapter and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain the map and amendments thereto shall be recorded on the zoning map within 30 days after official publication of any amendment. The Official Zoning Map shall be kept on file in the Zoning Administrator's office in the Fulda City Hall.

(C) *Shoreland Zoning District Map.* The Protected Waters Inventory Map for Murray County, dated 1987, developed by the Minnesota Department of Natural Resources is hereby adopted by reference as the Official Shoreland District Map and made a part of this chapter.

(Ord. 157, passed 4-20-1992)

§ 152.42 AGRICULTURAL - OPEN SPACE DISTRICTS.

(A) *Agriculture use standards.*

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation

or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation Districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the normal high water level.

(2) Animal feedlots shall not be located in shoreland areas.

(B) *Extractive use standards.*

(1) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from normal high water levels of public waters and from bluffs.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.43 S SHORELAND MANAGEMENT DISTRICT.

(A) *Purpose.* The uncontrolled use of shorelands in the City of Fulda affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use, and development of shorelands of public waters. In regulating the subdivision, use, and development of shorelands of public waters, the city shall be able to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and regulated land resources.

(B) *General provisions.*

(1) The Shoreland Management District shall apply to all shorelands of the public water bodies as classified in division (C) below within the jurisdiction of the City of Fulda.

(2) The jurisdiction of the City of Fulda may extend into unincorporated areas, by agreement of both the county and the city, in order to comply with the state mandated shoreland standards.

(3) Pursuant to Minn. Rules, parts 6120.2500 through 6120.3900, as they may be amended from time to time, no lake, pond, or flowage less than 10 acres in size in municipalities or less than 25 acres in size in unincorporated areas need be regulated. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city, be exempt from this section.

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(4) The use of any shoreland of public waters; the size and shape of lots; the use, size type, and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this section and other applicable regulations.

(C) *Shoreland classification system.* The public waters of the City of Fulda have been classified below consistent with the criteria found in Minn. Rules, part 6120.3300, as it may be amended from time to time, and the Protected Waters Inventory Map for Murray County, Minnesota.

(1) The shoreland area for the waterbodies listed in division (B) above shall be as defined in this subchapter and as shown on the Official Shoreland Zoning Map.

(2) Lakes - general development:

<i>Protected Waters IDF</i>	<i>General Development Lakes</i>	<i>Township</i>	<i>Section</i>
51-20	2nd Fulda Lake	Bondin	25
51-21	1st Fulda Lake	Bondin	36

(D) *Shoreland land use districts.*

(1) *Criteria for designation.* The land use districts in division (D)(2) below, and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives.

(a) General considerations and criteria for all land uses:

1. Preservation of natural areas;
2. Present ownership and development of shoreland areas
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;
10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

(b) Factors and criteria for planned unit developments:

1. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

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- density;
- development approach;
- undeveloped lands.
2. Physical and aesthetic impacts of increased
 3. Suitability of lands for the planned unit
 4. Level of current development in the area; and
 5. Amounts and types of ownership of

(2) *Land use district descriptions.* The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Official Zoning Map for the shorelands of the city.

LAND USE DISTRICTS FOR LAKES	
<i>Special Protection District - Uses</i>	
Forest management	P
Sensitive resource mgt.	P
Agricultural: crop land and pasture	P
Agricultural feedlots	C
Parks and historic sites	C
Extractive use	C
Single residential	C
<i>Residential District - Uses</i>	
Single residential	P
Semipublic	C
Parks and historic sites	C
Extractive use	C
Duplex, triplex, quad resi.	P
Forest management	P
<i>High Density Residential District - Uses</i>	
Residential planned unit developments	C
Single residential	P
Surface water oriented commercial*	C
Semipublic	C
Parks and historic sites	C
Duplex, triplex, quad resi.	P
Forest management	P
<i>Water-Oriented Commercial District - Uses</i>	
Surface water-oriented commercial	P
Commercial planned unit development**	C
Public, semipublic	C
Parks and historic sites	C

Forest management	P
<i>General Use District - Uses</i>	
Commercial	P
Commercial planned unit development**	C
Industrial	C
Public, semipublic	P
Extractive use	C
Parks and historic sites	C
Forest management	P
NOTES TO TABLE: * - As accessory to a residential planned unit development. ** - Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use provided the provisions of this section are satisfied. P - permitted uses C - conditional uses N - prohibited uses	

(3) *Use and upgrading of inconsistent land use districts.*

(a) The land use district regulations adopted prior to the Shoreland District Update, that apply to shoreland areas, their delineated boundaries on the Official Zoning Map, and are not consistent with the land use district designation criteria specified in this subchapter must conform as follows: These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

(b) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply: For lakes, when a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on the lake must be revised to make them substantially compatible with the framework in this subchapter.

(c) When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the Board of Adjustments. When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.

(d) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Zoning Administrator to provide the additional information for this waterbody as is necessary to satisfy this section.

(e) The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on the waterbody, are consistent with the enumerated criteria and use provisions of this section.
(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

§ 152.44 GENERAL BUSINESS DISTRICTS.

(A) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs for access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this section, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the needs; and

(3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;

(b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

(c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(B) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(Ord. 157, passed 4-20-1992) Penalty, see § 152.99

ADMINISTRATION

§ 152.55 PERMITS REQUIRED.

(A) A permit is required for the construction of buildings or building additions (and including the related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by this chapter. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a complaint sewage treatment system will be provided.

(B) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 152.29, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(C) The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this chapter. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in Section 15 of this chapter.

(D) Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

(E) Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(Ord. 157, passed 4-20-1992)

§ 152.56 AMENDMENTS AND CONDITIONAL USE PERMITS.

(A) *Generally.*

(1) A copy of a request for a conditional use permit within any designated shoreland area shall be forwarded to the Minnesota Department of Natural Resources by the Zoning Administrator at least 10 days prior to a public hearing.

(2) A copy of all decisions granting any conditional use permit within any designated shoreland areas shall be forwarded to the Department of Natural Resources with 10 days after the decision.

(3) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for

review of conditional uses established countywide. The following additional evaluation criteria and conditions apply within shoreland areas.

(B) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (2) The visibility of structures and other facilities as viewed from public waters is limited;
- (3) The site is adequate for water supply and on-site sewage treatment; and
- (4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(C) *Conditions attached to conditional use permits.* The City Zoning Board, upon consideration of the criteria listed above and the purposes of this chapter, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may be include, but are not limited to, the following:

- (1) Increased setbacks from the normal high water level;
- (2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- (3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. 157, passed 4-20-1992)

§ 152.57 VARIANCES WITHIN SHORELAND.

(A) *Generally.* Variances may only be granted in accordance with M.S. Ch. 462, as it may be amended from time to time, as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(B) *Shoreland.* The Board of Adjustment (City Council) shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the

notification of the approved variance required in this section shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(1) *Existing developments.* For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(2) *Notifications to the Department of Natural Resources.*

(a) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(b) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within 10 days of final action.

(Ord. 157, passed 4-20-1992)

§ 152.99 PENALTY.

(A) Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor.

(B) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains the violation may each be found guilty of a separate offense and suffer the penalties herein provided. Any violation of the provisions in this chapter, relating to Shoreland Management District or failure to comply with any of its requirements (including violations of conditions and safeguards established in with grants of variances or conditional use) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 152.56.

(Ord. 157, passed 4-20-1992) Penalty, see § 10.99

CHAPTER 153: FLOODPLAIN MANAGEMENT

Section

Fulda, Minnesota Code of Ordinances

153.01	Statutory authorization and purpose
153.02	General provisions
153.03	Establishment of Floodplain District
153.04	Permitted activities and standards in the Floodplain District
153.05	Administration
153.06	Nonconformities
153.07	Penalties and enforcement
153.08	Amendments

§ 153.01 STATUTORY AUTHORIZATION AND PURPOSE.

(A) *Statutory authorization.* The legislature of the State of Minnesota has, in M.S. Chapters 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(B) *Purpose.*

(1) This chapter regulates development in the flood hazard areas of the City of Fulda. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(2) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 to 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(3) This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development. (Ord. 237, passed 2-3-2020)

§ 153.02 GENERAL PROVISIONS.

(A) *Lands to which chapter applies.* This chapter applies to all lands within the jurisdiction of the City of Fulda shown on the Flood Insurance Rate Maps adopted in division (B) as being located within the boundaries of the Floodplain District. The Floodplain District is an overlay district that is superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this chapter. In case of a conflict, the more restrictive standards will apply.

(B) *Incorporation of maps by reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this section. The attached material includes the Flood Insurance Study for Murray County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate map panel 2706450555A, both dated May 3, 1990, prepared by the Federal Emergency Management Agency. These materials are on file in City Hall, 102 3rd Street NE, Fulda, Minnesota.

(C) *Interpretation.* The boundaries of the Floodplain District are determined by scaling distances on the Flood Insurance Rate Map.

(1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations must be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

(2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City of Fulda Zoning Board and to submit technical evidence.

(D) *Abrogation and greater restrictions.* It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(E) *Warning and disclaimer of liability.* This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter does not create liability on the part of the City of Fulda or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(F) *Definitions.* Unless specifically defined below, words or phrases used in this chapter must be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the **REGIONAL FLOOD**, as defined. The term **BASE FLOOD ELEVATION** is used in the flood insurance survey.

DEVELOPMENT. Any man-made change to improved or unimproved real estate including, but not limited to, buildings, manufactured homes, and other structures, recreational vehicles, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

FARM FENCE. A fence as defined by M.S. § 344.02, Subd. 1a through 1d. An open type fence of posts and wire is not considered to be a structure under this chapter. Fences that have the potential to obstruct flood

flows, such as chain link fences and rigid walls, are not permitted in the Floodplain District.

FLOOD FRINGE. The portion of the floodplain located outside of the floodway. Flood fringe is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study, Murray County, Minnesota Unincorporated Areas.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOODPLAIN. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term **RECREATIONAL VEHICLE**.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence (with the exception of **FARM FENCES**), stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** is synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance/100-year recurrence interval. Regional flood is synonymous with the term **BASE FLOOD** used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. The term **SUBSTANTIAL IMPROVEMENT** includes structures that have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure. For the purpose of this chapter, **HISTORIC STRUCTURE** is as defined in 44 Code of Federal Regulations, Part 59.1.

(G) **Annexations.** The Flood Insurance Rate Map panels adopted by reference into division (B) above may include floodplain areas that lie outside of the corporate boundaries of the City of Fulda at the time of adoption of this chapter. If any of these floodplain areas are annexed into the City after the date of adoption of this chapter, the newly annexed floodplain lands will be subject to the provisions of this chapter immediately upon the date of annexation.

(Ord. 237, passed 2-3-2020)

§ 153.03 ESTABLISHMENT OF FLOODPLAIN DISTRICT.

(A) **Areas included.** The Floodplain District for the City of Fulda includes those areas designated as Zones AE on the Flood Insurance Rate Maps adopted in § 153.02(B). The Floodplain District is an overlay district to all existing land use districts. The requirements of this chapter apply in addition to other legally established regulations of the community. Where this chapter imposes greater restrictions, the provisions of this chapter apply.

(B) **Compliance.** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations. Within the Floodplain District, all activities not listed in § 153.04 are prohibited.

(Ord. 237, passed 2-3-2020)

§ 153.04 PERMITTED ACTIVITIES AND STANDARDS IN THE FLOODPLAIN DISTRICT.

(A) *Permitted activities.* A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

(1) Expansion, change, enlargement, or alteration of a nonconforming use as specified in § 153.06. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in § 153.02(F).

(2) Any use that requires fill, obstruction, excavation, storage of materials, or any other form of development as defined in § 153.02(F).

(B) *Activities not requiring a permit.* The following activities are allowed within the Floodplain District without a permit provided that they comply with all underlying zoning districts and are not prohibited by any other ordinance; and provided that they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development as defined in § 153.02(F). If the activity does require any other form of development, a permit and compliance with division (C) below is required.

(1) Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting. Farm fences that do not obstruct flood flows are permitted;

(2) Outdoor plant nurseries and horticulture;

(3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, hunting and fishing areas, and single or multiple purpose recreational trails;

(4) Lawns, gardens, parking areas, and play areas;

(5) Railroads, roads, bridges, utility transmission lines, pipelines and other public utilities, or other projects impacting a public water, provided that the applicant has secured a public waters work permit or utility crossing license from the Department of Natural Resources.

(C) *Standards for permitted activities.*

(1) All construction and activities must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) Construction must utilize materials that are resistant to flood damage.

(3) Activities must utilize methods and practices that minimize flood damages.

(4) The activity must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

(5) Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(6) Public utilities, roads, railroad tracks and bridges to be located within the floodplain must be designed in accordance with divisions (C)(4) and (C)(5) above, or must obtain a Conditional Letter of Map Revision meeting the requirements of 44 Code of Federal Regulations, Chapter 603(d).

(a) When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, such facilities must be elevated to the regulatory flood protection elevation.

(b) Where failure or interruption of service would not endanger public health or safety, railroads, utilities, and minor or auxiliary roads may be constructed at a lower elevation.

(7) New or replacement water supply systems and sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
(Ord. 237, passed 2-3-2020)

§ 153.05 ADMINISTRATION.

(A) *Zoning Administrator.* A Zoning Administrator or other official designated by the City Council must administer and enforce this chapter.

(B) *Development approvals.* Any construction, enlargement, alteration, repair, improvement, moving or demolition of any building or structure must comply with the requirements of this chapter. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation or other form of development as defined in § 153.02(F) of this chapter are allowed, other than those associated with the activities identified in §§ 153.04 and 153.06.

(1) Permit applications must be submitted to the Zoning Administrator on forms provided for that purpose and shall include the following where applicable: plans drawn to scale showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(2) Prior to granting a permit, the Zoning Administrator must verify that the applicant has obtained all necessary state and federal permits.

(C) *Variances.*

(1) An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes.

(2) A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(3) The following additional variance criteria of the Federal Emergency Management Agency must be met:

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(a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances may only be issued by a community upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) The City Council must submit hearing notices for proposed variances to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(5) A copy of all decisions granting variances must be forwarded to the Commissioner of the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(6) The Zoning Administrator must notify the applicant for a variance that: (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (b) Such construction below the base or regional flood level increases risks to life and property.

(7) The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(D) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(E) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(Ord. 237, passed 2-3-2020)

§ 153.06 NONCONFORMITIES.

(A) *Continuance of nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

(1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. There shall be no expansion to the outside dimensions of any portion of a nonconforming structure located within the Floodplain District. Any expansion or enlargement of uses, structures, or occupancies within the Floodplain District is prohibited.

(2) If any structure experiences a substantial improvement as defined in this chapter, then the entire structure must meet the standards of division (B) of this section for new structures. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map, exceeds 50% of the market value of any nonconforming structure, the entire structure must meet the standards of division (B) of this section.

(3) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this chapter.

(4) If any nonconformity is substantially damaged, as defined in § 153.02(F), it may not be reconstructed unless it is located in the flood fringe portion of the floodplain and it is reconstructed in accordance with the standards of division (B) of this section.

(5) For any substantial improvement, as defined in § 153.02(F), to a nonconforming structure, the existing nonconforming structure must be located in the flood fringe portion of the floodplain and meet the requirements of division (B) of this section.

(B) *Standards for reconstruction of nonconforming structures.* In addition to the standards identified in § 153.04(C), the following standards and procedures apply to nonconforming structures and associated activities in the flood fringe portion of the floodplain, as allowed under division (A) of this section.

(1) All structures, including manufactured homes, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure.

(2) Fill must be properly compacted and the slopes must be properly protected by the use of mulches or similar materials for temporary bare soil coverage, with permanent vegetation cover established as soon as possible, or other acceptable method.

(3) Electrical, heating, ventilation, ductwork, plumbing, and air conditioning equipment and other service facilities must be designed and/or

located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) *On-site sewage treatment and water supply systems.* Where public utilities are not provided: (a) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and (b) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(5) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(6) *Record of first floor elevation.* The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

(Ord. 237, passed 2-3-2020)

§ 153.07 PENALTIES AND ENFORCEMENT.

(A) *Violation constitutes a misdemeanor.* Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) constitutes a misdemeanor and is punishable as defined by law.

(B) *Other lawful action.* Nothing in this chapter restricts the City of Fulda from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this chapter and will be prosecuted accordingly.

(C) *Enforcement.* In responding to a suspected violation of this chapter, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct chapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. 237, passed 2-3-2020)

Cross reference:

General penalty, see § 10.99

§ 153.08 AMENDMENTS.

(A) *Floodplain designation; restrictions on removal.* The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(B) *Amendments require DNR and FEMA approval.* All amendments to this chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner of the DNR must approve the amendment prior to community approval.

(C) *Map amendments require chapter amendments.* The Floodplain District regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in § 153.02. (Ord. 237, passed 2-3-2020)

TABLE OF SPECIAL ORDINANCES

Table

- I. **FRANCHISES**
- II. **ANNEXATIONS**
- III. **ZONING MAP CHANGES**
- IV. **STREET NAMES**

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
102	3-26-1976	Acceptance of cable television franchise; Cable Communications System, Inc.
103	3-15-1976	Cable television franchise; Cable Communications System, Inc.
104	9-7-1976	Amends Ord. 103
134	3-2-1987	Electric franchise; Interstate Power Company

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
142	10-1-1990	Gas franchise; Peoples Natural Gas Company
161	4-5-1993	Gas franchise; Gorham's Inc., a Minnesota corporation doing business as Northwest Natural Gas Company
162	5-3-1993	Cable television franchise; D.D. Cable Holdings, Inc.
216	3-5-2012	Electric franchise; Interstate Power and Light Company
232	6-4-2018	Cable television franchise; Clarity Telecom, LLC doing business as Vast Broadband
248	7-12-2021	Gas Franchise; Northwest Natural Gas of Murray County, LLC, a Minnesota limited liability company
248	7-12-2021	Gas Franchise; Northwest Natural Gas of Murray County, LLC, a Minnesota limited liability company

TABLE II: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
89	7-3-1967	Annexation of land
92	1-4-1968	Annexation of land
160	3-1-1993	Annexation of land
165	3-21-1994	Annexation of land
174	10-20-1997	Annexation of land

TABLE III: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
116	8-6-1979	Zoning map change
123	8-8-1983	Zoning map change

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
159	8-17-1992	Zoning map change
168	10-2-1995	Zoning map change
169	5-20-1996	Zoning map change
170	7-1-1996	Zoning map change
182	5-20-2002	Zoning map change
200	5-21-2007	Zoning map change

TABLE IV: STREET NAMES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
90	8-7-1967	Renaming of streets

PARALLEL REFERENCES

References to Minnesota Statutes

References to Resolutions

References to Ordinances

REFERENCES TO MINNESOTA STATUTES

<i>M.S. Section</i>	<i>Code Section</i>
14.57–14.70	110.36; 110.99
18.771	92.02
84.87, Subd. 1	70.03
84.87, Subd. 2	70.03
88.16 to 88.22	92.35
93.44–93.51	152.04
103A–103G	152.02
103F	153.01

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<i>M.S. Section</i>	<i>Code Section</i>
103F.201–103F.221	152.29
103G.005, Subd. 14	152.04
103G.005, Subd. 15	152.04
103G.245	152.24; 153.05
115.03, Subd. 29	152.04
117	31.04
152.01–152.21	111.02
157.16	110.03
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171.01	70.01
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171.22	70.01
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340A	110.01; 110.02; 110.20; 110.23; 110.36; 110.99
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429.061	90.03; 90.06; 92.10
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REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
66A	8-6-1929	31.70-31.80
76	9-3-1946	70.15-70.24
79	3-6-1950	70.20
89	7-3-1967	TSO II
90	8-7-1967	TSO IV
92	1-4-1968	TSO II
93	7-1-1968	30.03
95A	10-5-1970	70.04
96	10-5-1970	30.02
99	1-7-1974	70.03
103	3-15-1976	TSO I
102	3-26-1976	TSO I
104	9-7-1976	TSO I
111	5-2-1977	70.02
113	12-4-1978	151.01-151.11; 151.25-151.36; 151.50-151.57; 151.70-151.74
116	8-6-1979	TSO III
121	12-1-1980	30.01
122	5-3-1982	150.25-150.31
123	8-8-1983	TSO III
127	4-18-1984	31.45-31.56
132	5-6-1985	50.01-50.07
134	3-2-1987	TSO I
135	3-2-1987	31.20-31.32
136	9-8-1987	31.01-31.06
142	10-1-1990	TSO I
143	10-22-1990	50.03; 50.05
143A	12-5-1990	70.01
144	12-5-1990	130.02
146	12-5-1990	130.01
149	12-5-1990	72.01-72.05; 72.99
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158	4-6-1992	50.20
157	4-20-1992	152.01-152.05; 152.20-152.29; 152.40-152.44; 152.55-152.57; 152.99
159	8-17-1992	TSO III
160	3-1-1993	TSO II
161	4-5-1993	TSO I
162	5-3-1993	TSO I
163	6-21-1993	50.02; 50.06
165	3-21-1994	TSO II
167	4-3-1995	110.33
168	10-2-1995	TSO III
169	5-20-1996	TSO III
170	7-1-1996	TSO III
171	9-16-1996	51.01-51.12; 51.98
172	10-7-1996	150.01-150.14
173	9-15-1997	50.02
174	10-20-1997	TSO II
175	11-3-1997	71.01-71.05; 71.99
176	12-1-1997	112.01-112.07
178	12-6-1999	92.50-92.57; 92.59; 92.60
179	7-10-2000	90.01-90.07; 90.99
182	5-20-2002	TSO III
183	3-3-2003	111.01-111.09
184	3-3-2003	111.20-111.30
185	7-14-2003	90.02
187	10-6-2003	110.33
189	7-6-2004	50.02
190	7-6-2004	50.04
193	12-6-2004	32.01
195	12-5-2005	32.02; Ch. 32, App. A.
196	1-3-2006	10.98; 70.01
197	11-6-2006	Adopting Ordinance
198	1-2-2007	Repealed
199	2-5-2007	32.03

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200	5-21-2007	TSO III
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202	8-6-2007	Ch. 32, App. A.
203	11-5-2007	Adopting Ordinance
204	12-3-2007	Repealed
205	5-5-2008	71.06
206	9-2-2008	Ch. 32, App. A
207	12-1-2008	Ch. 32, App. A.
208	4-6-2009	Adopting Ordinance
209	12-7-2009	Repealed
210	2-8-2010	Ch. 32, App. A.
211	2-8-2010	10.98
212	5-5-2010	Adopting Ordinance
213	12-6-2010	Ch. 32, App. A.
214	2-7-2011	Adopting Ordinance
215	12-5-2011	32.02; Ch. 32, App. A.
216	3-5-2012	TSO I
217	2-12-2013	Ch. 32, App. A.
218	7-1-2013	91.01-91.16, 91.99
219	7-1-2013	Ch. 32, App. A.
220	9-3-2013	Ch. 32, App. A.
221	12-2-2013	32.02; Ch. 32, App. A.
222	11-3-2014	Adopting Ordinance
223	3-2-2015	Ch. 32, App. A.
224	12-7-2015	Ch. 32, App. A.
225	4-19-2016	32.10-32.15
226	6-6-2016	Adopting Ordinance
227	8-1-2016	151.26
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229	3-6-2017	Adopting Ordinance
225	8-7-2017	32.12
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225	6-2-2018	32.12
232	6-4-2018	TSO I

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236	2-3-2020	32.02; Ch. 32, App. A
237	2-3-2020	153.01-153.08
239	6-1-2020	Ch. 32, App. A; 91.04; 91.17
240	6-1-2020	50.05
242	6-1-2020	91.01; 91.02; 91.99
243	7-6-2020	51.11
244	8-3-2020	92.02
245	9-8-2020	92.36
246	1-4-2021	32.02; Ch. 32, App. A
247	5-3-2021	151.31
248	7-12-2021	TSO I
249	12-6-2021	32.02, Ch. 32, App. A
250	1-9-2023	32.02, Ch. 32, App. A
251	2-21-2023	151.28, 151.31
252	2-21-2023	150.27
253	4-25-2023	151.37
254	12-4-2023	51.25–51.34
255	1-2-2024	32.02, Ch. 32, App. A
256	12-18-2024	32.02, Ch. 32, App. A
257	12-18-2024	51.25–51.34
258	4-29-2025	151.28, 151.33