

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF FOSSTON, POLK COUNTY MINNESOTA
October 10, 2022

The regular meeting of the Council of the City of Fosston, Polk County Minnesota was held in council chambers on Monday, October 10, 2022, at 7:00 p.m.

The meeting was called to order by Mayor Offerdahl with the following members present: Bosselman, Dufault and Mulry. Members absent: Anderson. Also present was: Cassie Heide, Steven Lyseng, Sarah Manecke, Dustin Manecke, Shane Linehan, Karen Graham, Amelia Linehan, Stephen Larson, Keith Kinnen, Lee Cariveau, Mary Olson, and Andrew Hanson.

Recited the Pledge of Allegiance.

Motion was made by Bosselman, seconded by Mulry to approve the agenda. Motion carried by unanimous vote.

Motion was made by Dufault, seconded by Bosselman to approve Consent Agenda items A., B., C. Motion carried by unanimous vote.

- A) To approve the minutes of the regular meeting held September 12, 2022, and minutes of the special meeting held September 26, 2022, as presented.
- B) To approve Accounts Payable Bill Listing #22-10 in the amount of \$176,009.40 and Supplemental AP Bill Listing #22-10A in the amount of \$50,939.73.
- C) To approve Accounts Payable Bill Listing – Omland Court, \$33,643.56.

COMMITTEES/BOARDS/COMMISSION:

City Administration: Cassie Heide reported on matters pertaining to her department

- Heide reported on a press release announcing the Department of Economic Development Administration's (EDA) \$5.8 million grant award to the City of Fosston to boost business growth by making infrastructure upgrades needed to expand the city's existing airport and industrial park. The grant is funded by the American Rescue Plan.
- Heide provided an update to the Highway 2 re-stripe project. The cones should be removed tomorrow with striping to be finished at the end of the week. The crosswalk by the high school is not proposed to change until construction in 2027 due to the re-alignment of Granum Ave North.
- Heide updated council on the Go Fund Me & in person rock wall restoration donations. Total donations to date are \$5,209.91.
- Heide noted that the city received a \$10,000 grant from NMPA for the purposes of deploying public Electric Vehicle charging infrastructure, which is slated to be installed next spring.

- Heide noted that she was informed by a few residents of a letter they received from the Fosston Post Office stating they have until November 6th to place a mailbox at the curb as the post office will no longer be doing door to door service to their homes. Mayor Offerdahl expressed his frustration as to how this was handled by the postmaster. Heide expressed our concern to the postmaster and indicated that cities do have authority to regulate the right of way. According to ordinance, residents need a permit to place anything in the right of way. Heide stated that no members of the council received this letter, so the city is solely doing what is best for the entire community. Heide reached out to the League of Minnesota Cities to find out that cities do have the ability to regulate mailboxes in the right of way. Attorney Larson is looking further into the matter and will provide guidance upon his determination.

Street/Utilities/Sanitation: Steven Lyseng reported on matters pertaining to his departments

- A firm load shed plan has been discussed amongst NMPA and other municipalities. The City of Fosston was listed as a category 3 due to Essentia. Lyseng said this means the city would be the last load to be shed in the event of an emergency.
- Lyseng noted that they have been dumping pond 2, which required three loads of chemical (alum). Pond 3 has been treated with three loads of chemical (alum) and will be dumped next week.
- Lyseng reported that the industrial feeder project that runs from City Hall to Cenex should be completed by November.
- Lyseng stated they had 5 new natural gas line installations this fall.
- Lyseng noted that staff has been doing required natural gas surveying & cathodic protection.
- The street department staff has been busy mowing, picking up yard waste and sweeping.
- All park bathrooms have been winterized and streetlights are being replaced.
- Lyseng noted that Shane Linehan passed his wastewater permit test, so he is now certified.

Civic Center: Karen Graham reported on matters pertaining to her department

- Mark continues to mow as necessary and has started prepping the skating rink for winter.
- Graham noted that Josh Pearson has built the shelves for the warming house where skates will be stored.
- Graham has been doing 5th grade swimming lessons over the last month in a half. Bagley students will also be coming over for swimming lessons.
- Horizon Pool Supplies will be draining the pool to replace main valves and float valves the end of November. The pool will be closed for approximately one week.

Police Department: Dustin Manecke reported on matters pertaining to his department

- Manecke reported they had 162 calls for service since last meeting.

- Manecke noted that there are still three (3) programming issues with the Zurcher software that need to be fixed, but staff can do reports.
- The Fosston Police Department was awarded \$1,000 after applying for the AAA grant. The grant was written for school safety improvements and will be used to add more signage by the schools to keep our children safe.
- Manecke & Juve completed bus safety for the elementary students.
- Juve completed AED training. As a result, each squad will be equipped with an AED.
- Manecke thanked Hope Lutheran Church for their donation towards the youth mentorship program.

Community Development:

- Heide informed the council that the EDA board met at noon today. In addition to regular business, the board discussed the continued work being done at the mobile home park and potential housing projects.
- A marketing subgroup of “Find Your Place in Fosston: Move Here” would like to be able to create ads to draw people to Fosston. The EDA board is recommending to council approval of a \$17,000 marketing budget. Council decided to table the discussion and requested looking into other avenues of assisting with the funding of the campaign as there are more beneficiaries to the campaign besides the city.

Hospital Board:

- Dufault reported that the board met on Wednesday, October 5th. Administrator Weispfennig indicated that nursing staff numbers are continuing to improve. They are aiming for a re-start date for labor & delivery services as of February 1, 2023. The Fosston hospital is currently able to do planned deliveries.
- Dufault noted that financials are slightly behind target (about 2-3%).
- Essentia Health is meeting 11 of 14 metrics.

Arts & Culture Commission: No report.

City Attorney:

- Attorney Larson commented on the USPS letter to certain residents. He questioned whether the postal service could require customers to come get their mail if denied a permit for a mailbox in the right of way by the city. Larson will further investigate.

ISD 601 Superintendent: No report. Offerdahl noted that he and Heide met with Superintendent Selk to discuss the rock wall restoration. If enough private donations are received, the possibility of a city/school district match will likely be considered.

Council considered approval of employee health insurance renewal for 2023 per recommendation of the personnel committee. Health insurance will continue to be through Blue Cross Blue Shield. The increase from 2022 to 2023 will be approximately \$5,000.

Motion was made by Mulry, seconded by Bosselman to approve the employee health insurance renewal for 2023 per recommendation of the personnel committee. Motion carried by unanimous vote.

Council considered approval of 2023 cost of living adjustment and step increases for city employees per recommendation of the personnel committee. A 3% cost of living adjustment was proposed in addition to the step increase. Bosselman inquired if a mid-year review could be done to analyze whether the 3% COLA was sufficient or if it needed to be increased. Heide noted that it could be reviewed anytime.

Motion was made by Dufault, seconded by Mulry to approve the 2023 cost of living adjustment and step increases for city employees per recommendation of the personnel committee. Motion carried by unanimous vote.

Council considered approval of amended personnel policy manual to include additional holiday pay language. Heide noted that an employee required to work on a holiday may choose to receive compensatory time for holidays instead of premium pay of 1.5 times the regular hourly wage of hours worked.

Motion was made by Mulry, seconded by Dufault to approve the amended personnel policy manual to include additional holiday pay language. Motion carried by unanimous vote.

Council considered approval of the City of Fosston Ride-Along Program. Chief Manecke noted that all participants must read and sign the Release and Indemnity Agreement prior to going on a ride-along with an officer.

Motion was made by Bosselman, seconded by Dufault to approve the City of Fosston Ride-Along Program. Motion carried by unanimous vote.

Introduced by Council Member Dufault.

Seconded by Council Member Offerdahl.

ORDINANCE NO. 22-07

ORDINANCE CREATING FOSSTON CITY CODE SECTION 130.70 ESTABLISHING A PROHIBITION ON THE POSSESSION, USE AND DISTRIBUTION OF EDIBLE CANNABINOID PRODUCTS BY UNDERAGE PERSONS IN PUBLIC PLACES LOCATED IN THE CITY OF FOSSTON

WHEREAS, possession or distribution of edible cannabinoid products by persons under the age of 18 years may be harmful to those persons or to other underage persons in receipt of those products and constitutes a potential threat to public health from injuries related to or

resulting from consumption, including impairment from consumption or related traffic collisions; and

WHEREAS, consumption of edible cannabinoid products could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user; and

WHEREAS, State law regarding edible cannabinoid products places restrictions on the labeling and packaging of product containing nonintoxicating cannabinoids, prohibits the sale of these cannabinoids to persons under the age of 21, and regulates the allowable amount of tetrahydrocannabinol in the product; and

WHEREAS, State law does not, however, address either the use of edible cannabinoid products by any person nor the amount of edible cannabinoid products any person consumes, regardless of their age; and

WHEREAS, State law also does not address the sharing or distribution of edible cannabinoid products by any person with others, regardless of their age; thus, as a result, the amount of edible cannabinoid products a person consumes is within that person's discretion; and

WHEREAS, as a result, possession or distribution of edible cannabinoid products occurring on public property by persons under the age of 18 should be prevented as much as possible; and

WHEREAS, a deterrent effect will be established by holding a person under the age of 18 years criminally responsible for possessing or distributing edible cannabinoid products on public property.

NOW THEREFORE BE IT ORDAINED by the City Council for the City of Fosston that Fosston City Code Section 130.70 be and hereby is established as follows:

Sec. 130.70. Edible Cannabinoids and Underage Persons.

Subd. 1. Purpose. The purpose of this section is to discourage and reduce underage possession and distribution of edible cannabinoid products on public property and provide the City authority to address such underage possession, consumption, or distribution on public property.

Subd. 2. Definitions. For purposes of this section, the following terms have the meanings given:

A. "Cannabinoid Product" means products derived from Cannabinoids which are a group of substances found in the Cannabis plant, the most common of which include tetrahydrocannabinol (THC).

B. “Custodian” means any person who is under a legal obligation to provide care and support for an underage person.

C. “Distribute” means to sell or furnish, regardless of whether consideration is given in return.

D. “Edible Cannabinoid Product” means any product that is intended to be either eaten, or consumed as a beverage, by humans, and which contains a cannabinoid product in combination with other consumable ingredients.

E. “Family members” means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

F. “Parent” means a person having the following relationship to an underage person:

1. a natural parent, adoptive parent, or step-parent;
2. a legal guardian; or
3. a person to whom legal custody has been given by order of a court.

G. “Person” means an individual, partnership, co-partnership, corporation, or an association of one or more individuals. “Person” does not include a city, county, or state agency.

H. “Public Property” and “public place” means any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard, or open space adjacent thereto and any lake or stream.

I. “Underage person” means an individual under 18 years of age.

Subd. 3. Prohibited Acts.

A. It is unlawful for an underage person to possess or consume an edible cannabinoid product on public property or distribute an edible cannabinoid product to another underage person on public property. This subdivision 3(A) does not apply to the conduct of an underage person that is physically accompanied by his, her, or their custodian or parent or an adult authorized by the custodian or parent. If contacted, the custodian or parent should be able to say specifically who they authorized their child to be with.

B. It is unlawful for any person to distribute an edible cannabinoid product, by any manner or means and in any form, to any underage person who is not a family member or who is not physically accompanied by a parent, custodian or adult authorized by the parent or custodian.

C. Penalty. Violation of any provisions of this subdivision shall be a petty misdemeanor punishable under Minn. Stat. 609.03.

D. Severability. If any portion of this subdivision is held invalid, the remaining provisions shall be considered severable and shall be given effect to the maximum extent possible.

Subd. 4. Exceptions.

A. This section shall not be interpreted to prohibit a bona fide, legally protected religious observance.

This ordinance shall take effect upon the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Voting in the negative: None.

Voting in the affirmative: Bosselman, Dufault, Mulry and Offerdahl.

Adopted this 10th day of October, 2022.

James Offerdahl, Mayor

Attest: _____
Cassie Heide, City Administrator

Attorney Larson stated that this ordinance prohibiting the possession, use and distribution of edible cannabinoid products by underage persons in public places within the City of Fosston is filling a gap to address the underage portion of the law that legislation failed to address. Larson noted that changes can be made to the ordinance as there is more development on this topic. Larson further noted that Fosston is the first city in Polk County to take action.

Introduced by Council Member Dufault.

Seconded by Council Member Bosselman.

ORDINANCE NO. 22-08

AN ORDINANCE ADOPTING LICENSING REGULATIONS RELATING TO THE SALE OF EDIBLE CANNABINOID PRODUCTS WITHIN THE CITY OF FOSSTON, MINNESOTA

BE IT ORDAINED BY THE CITY OF FOSSTON, as follows:

SECTION 1: ADOPTION “CHAPTER 115: EDIBLE CANNIBINOID PRODUCTS” of the City of Fosston Municipal Code is hereby added as follows:

ADOPTION

115. EDIBLE CANNIBINOID PRODUCTS(*Added*)

SECTION 2: ADOPTION “115.1 Purpose and Intent” of the City of Fosston Municipal Code is hereby *added* as follows:

ADOPTION

115.1 Purpose and Intent(*Added*)

The Minnesota Legislature adopted M.S. § 151.72, making it legal to sell certain edibles and beverages infused with tetrahydrocannabinol (THC), the cannabis ingredient extracted from hemp. The City Council deems it necessary to provide for the regulation of edible cannabinoid products in order to protect the public health safety and welfare and to ensure that edible cannabinoid products are sold in accordance with State Law.

SECTION 3: ADOPTION “115.2 Adoption Of State Law By Reference” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.2 Adoption Of State Law By Reference(*Added*) The provisions of M.S. § 151.72, as it may be amended from time to time, are hereby adopted by reference and are made a part of this section as if set out in full.

SECTION 4: ADOPTION “115.3 Definitions” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.3 Definitions(*Added*) In addition to the definitions contained in M.S. § 151.72, as it may be amended from time to time, the following terms are defined for purposes of this section.

CITY. The City of City of Fosston.

COMPLIANCE CHECKS. The system used by the city, or other applicable governmental unit, to investigate and ensure that those authorized to sell edible cannabinoid products are following and complying with the requirements of this chapter. COMPLIANCE CHECKS may involve the use of persons under the age of 21 authorized by this chapter. COMPLIANCE CHECKS may also be conducted by other units of government for the purpose of enforcing appropriate state and local laws and regulations relating to edible cannabinoid product.

SELF-SERVICE MERCHANDISING. Open displays of edible cannabinoid products in any manner where any person has access to the edible cannabinoid product without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.

VENDING MACHINE. Any mechanical, electric, or electronic, or other type of device which dispenses tobacco-related products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco-related product.

SECTION 5: ADOPTION "115.4 License" of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.4 License(*Added*)

A. License required. No person shall sell or offer to sell any edible cannabinoid product without first having obtained a license to do so from the city.

B. Application. An application for a license to sell edible cannabinoid products shall be made on a form provided by the city. Upon receipt of a completed application, the Administrator shall forward the application to the Police Department for the purpose of conducting a background check on the applicant. The Police Department shall have ten (10) days from receipt of a complete application to complete the background check. Upon completion of the background check, the Police Department shall forward the application and investigation results to the City Council for action at its next regularly scheduled meeting. If the Administrator, determines that an application is incomplete, he/she shall return the application to the applicant with notice of the information necessary to make the application complete.

C. Action. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council approves the license, the Administrator, shall issued the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

D. License fee: \$1,000. No license shall be issued under this chapter until the appropriate license fee is paid in full. The annual fee for a license under this chapter shall be established in the city's ordinance establishing fees and charges, as may be amended from time to time. Initial license applications covering a period of less than one year shall be charged a fee calculated on a monthly pro rata basis.

E. Restriction on issuance. 1. 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. In the event an action has been commenced pursuant to the provisions of M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this paragraph. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due. 2. No license shall be issued for a premises within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which edible cannabinoid products are to be sold. 3. No license shall be granted if the applicant, responsible party, owner, manager or any other person involved with the licensee: a. Is under the age of 21; b. Who is not of good moral character and repute; and c. Who has been convicted, within five years prior to the application for such license, of any violation of any law of the United States, this state or any other state or territory or of any local ordinance regarding the manufacture, sale or distribution of edible cannabinoid products.

F. Term. All licenses issued under this chapter shall expire on December 31 of each year.

G. Revocation or suspension. Any license issued under this chapter may be revoked or suspended as provided in this chapter.

H Transfers. All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

I. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

J. Renewals. The renewal of a licenses issued under this chapter shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but not more than 60 days before the expiration of the current license.

K. Issuance as privilege and not a right. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

SECTION 6: ADOPTION “115.5 Unlawful Acts” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.5 Unlawful Acts(*Added*)

A. Unlawful sales. It shall be a violation of this chapter for any person to sell any edible cannabinoid product:

1. To any person under the age of 21 years;
2. By means of any type of vending machine;
3. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the edible cannabinoid product and whereby there is not a physical and in person exchange of the edible cannabinoid product between the licensee or the licensee's employee, and the customer; or
4. That is in violation of M.S. § 151.72, as it may be amended from time to time.

B. Use of false identification. It shall be a violation of this chapter for any person to attempt to disguise his/her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

C. Unlawful purchases. It shall be unlawful for any person who is under the age of 21 years to purchase any edible cannabinoid product. Persons acting under the direct supervision of the city, law enforcement, or other governmental unit and which are actively engaged in a compliance check of the licensed premises are exempted from this provision while engaged in the compliance check.

D. Distribution of edible cannabinoid product samples. It shall be unlawful for any licensee or any person, business or retailer to distribute or give away edible cannabinoid products free of charge to any person on any right-of-way, park, playground, school or other property owned by the city.

SECTION 7: ADOPTION “115.6 Licensee Responsibility” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.6 Licensee Responsibility(*Added*)

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of edible cannabinoid products on the licensed premises, and the sale of such an item by an employee shall also be considered a sale by the license holder. The license holder shall at all times be responsible for how edible cannabinoid products are offered for sale on the licensed premises and for ensuring that such edible cannabinoid products are compliant with this chapter and state and federal law. Violations of this code, state law, or other applicable law or regulation may be enforced against the license holder and any other responsible individual. Nothing in this section shall be construed as prohibiting such separate enforcement actions related to a single behavioral incident nor shall the imposition of any penalty act as a bar to the prosecution, licensing action, or other enforcement action against another.

SECTION 8: ADOPTION “115.7 Compliance Checks; Inspections” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.7 Compliance Checks; Inspections(Added)

All licensed premises shall be open to inspection by the City Police Department or other authorized city official during regular business hours. The City shall conduct compliance checks from time to time but at least twice per year. The City will conduct at least one compliance check that involves the participation of a person between the ages of 18 and 20 to enter the licensed premises to attempt to purchase edible cannabinoid products. Persons under the age of 21 used for compliance checks shall not be guilty of an unlawful purchase or attempted purchase, not the unlawful possession of edible cannabinoid products when those items are obtained or attempted to be obtained as part of the compliance check. No person under the age of 21 used in compliance checks shall attempt to use a false identification misrepresenting the persons age and all persons under the age of 21 lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or his/her employee and shall produce any identification, if any exists, for which he/she is asked.

SECTION 9: ADOPTION “115.8 Violations And Penalty” of the City of Fosston Municipal Code is hereby added as follows:

A D O P T I O N

115.8 Violations And Penalty(Added)

A. Violations a misdemeanor. A violation of this chapter shall be a misdemeanor. Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter.

B. Violations. 1. Notice. Upon discovery of a suspected violation, and in addition to any criminal sanction, the alleged violator may be issued, either personally or by mail, an administrative

offense citation setting forth the alleged violation and the alleged violator's right to be heard on the accusation. 2. Hearing. The person accused of violating this chapter may request a hearing in writing within 14 days of receipt of the notice of violation and a hearing shall be scheduled, the time and place of which shall be provided to the accused violator. 3. Hearing of Officer. The City Council, or its designee, shall appoint a person to serve as the hearing officer. 4. Decision. If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator. 5. Appeal. Appeals of any decision made by the hearing officer shall be made to the City Council in writing within seven days of receipt of the hearing officer's decision. The decision of the City Council shall be final. 6. Continued violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

C. Administrative penalties, individuals. If a person who is not a licensee is found to have violated this chapter, the person shall be charged an administrative penalty of \$50 for a first violation of this chapter, \$100 for a second violation within a 12-month period and \$150 for a third or subsequent violation within a 12-month period.

D. Administrative penalties, licensee. Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative penalty of \$500 for a first violation of this chapter, \$1,000 for a second violation at the same licensed premises within a 36-month period and \$2,000 for a third or subsequent violation at the same location within a 36-month period. After the third violation, the license is automatically suspended for seven days commencing the day following the date of exhaustion of any right of appeal, contemplated herein, of the third offense. In addition to the seven day suspension, the City Council shall conduct a hearing at the next regular Council meeting following the third violation to determine whether the license should be suspended longer than seven days. Any additional suspension may be for the remainder of the license period or 90 days, whichever is greater. Upon a fourth violation at the same location within a 36-month period, the license will be revoked.

SECTION 10: ADOPTION "115.9 LICENSE BACKGROUND CHECKS" of the City of Fosston Municipal Code is hereby added as follows:

115.9 Licensing Background Checks (*Added*)

A. Conducting the criminal history background investigation. In order to screen license applicants under this chapter, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement

official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator or other city staff involved in the license approval process.

B. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the city will not reject an applicant for a license on the basis of the applicant’s prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant’s request on this basis, the city shall notify the applicant in writing of the following: 1. The ground and reasons for the denial; 2. The applicant compliant and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time; 3. The earliest date the applicant may reapply for the license; and 4. That all competent evidence of rehabilitation will be considered upon reapplication

Section 19. EFFECTIVE DATE

This ordinance shall take effect upon the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Voting in the negative: Bosselman.

Voting in the affirmative: Dufault, Mulry and Offerdahl.

Passed this 10th day of October, 2022.

James Offerdahl, Mayor

ATTEST: _____
Cassie Heide, City Administrator

Council passed this ordinance pending a couple requested changes. Heide will remove “no license shall be issued for a premises within 500 feet of any school or church”. The annual fee for a license may be amended “by resolution” from time to time. Mulry questioned the license fee being set at \$1,000 because alcohol and tobacco fees are significantly less. Heide noted that the alcohol and tobacco license fees will be re-visited and adjusted accordingly.

Introduced by Council Member Bosselman.

Seconded by Council Member Dufault.

ORDINANCE NO. 22-09

AN ORDINANCE OF THE CITY OF FOSSTON, MINNESOTA ADDING RENTAL DWELLING REGULATIONS

BE IT ORDAINED BY THE CITY OF FOSSTON, as follows:

Section 1. Fosston City Code, Chapter 153, entitled “Rental Dwelling” is adopted and added to the Fosston City Code, as follows:

RENTAL DWELLING

§ 153.01 PURPOSE.

It is the purpose of this ordinance to protect the public health, safety and welfare of the community at large and the residents of rental dwellings in the City of Fosston and to ensure that rental housing in the city is decent, safe, and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to come an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of rental residential properties is a business enterprise that entails certain responsibilities. Owners and operators are responsible to take such reasonable steps as necessary to ensure that the citizens of the city who occupy such units may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from noise, nuisance or annoyances; and free from unreasonable fears about safety of persons and security of property.

§ 153.02 APPLICABILITY.

This ordinance applies to all rental dwellings in the city, including any accessory structures on the premises upon which the rental dwelling is located, such as garages and storage buildings. This ordinance does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, licensed group homes, nursing homes, or condominium units as defined and governed by Minnesota Statutes, Chapters 515, 515A and 515B.

§ 153.03 ADOPTION OF PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, current edition, as published by the International Code Council, is adopted by reference in its entirety, except as modified or amended in this ordinance. Nothing in this ordinance or the International Property Maintenance Code shall be construed to cancel, modify, or set aside any other provision of this code of ordinances.

§ 153.04 ENFORCEMENT OFFICIAL.

The City Administrator or his or her designee shall be the enforcement official of this ordinance and is authorized and directed to enforce all provisions of this ordinance, subject to review by the City Council.

§ 153.05 DEFINITIONS.

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

ACCESSORY STRUCTURE. A structure subordinate to a principal dwelling not authorized to be used for living or sleeping by human occupants.

APARTMENT BUILDING. A structure designed to accommodate three or more dwelling units.

COMPOSTING. Accumulation of yard waste to be decomposed.

DWELLING, DWELLING UNIT, PREMISES, or STRUCTURE. Deemed to be followed by the words “or any part thereof.”

DWELLING UNIT. A single residential accommodation intended for use as a domicile for one family. Where a private garage is structurally attached, it will be considered as part of the building in which the dwelling unit is located.

DWELLING. Building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including single family dwellings, multi-family dwellings, apartment buildings and rooming units, but excluding hotels and motels.

ENFORCEMENT OFFICIAL. The City Administrator and agents authorized by the City Administrator to administer and enforce this ordinance.

FAMILY or HOUSEHOLD. One person or two or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than the owner or a residence plus three persons not so related occupying the residence and maintaining a common household and using common cooking and kitchen facilities.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.

HABITABLE BUILDING. Any building or part thereof that meets minimum standards for a dwelling.

HABITABLE ROOM. Room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms toilet rooms, laundries, furnace rooms, unfinished basements, (those without required ventilation, required electric

outlets and required exits), pantries utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.

HEATED WATER. Water heated to a temperature of not less than 120 degrees Fahrenheit, or such lesser temperature required by government authority, measured at faucet outlet.

KITCHEN. A space which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment, and adequate space for the storage of cooking utensils.

OCCUPANT. Any person (including owner or operator) living, sleeping, cooking and eating in a dwelling unit or living and sleeping in a rooming unit.

OPERATOR. The owner or agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who owns a dwelling. Any person representing an owner must comply with the provisions of this ordinance to the same extent as the owner.

PERMISSIBLE OCCUPANCY. The maximum number of persons permitted to reside in a dwelling unit or rooming unit.

PERSON. An individual, firm, partnership, association, corporation or joint venture or organization of any kind.

PREMISES. A parcel of land which includes a dwelling.

RECYCLABLES. Materials which may be recycled or reused through recycling processes, Including metal beverage containers, glass, newsprint, plastic bottles with necks, corrugated cardboard, magazines, catalogs, phone books and any other materials designated as recyclables by City Council resolution.

REFUSE. All putrescible and non-putrescible waste solids including garbage and rubbish.

RENTAL UNIT. A dwelling or dwelling unit let for rent or lease in exchange for monetary payment or which is occupied by someone other than the owner for a period longer than six months.

REPAIR. To restore to a sound and acceptable state of operation, serviceability or appearance.

RODENT HARBORAGE. Any place where rodents can live, nest or seek shelter.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

SAFETY. The condition of being reasonably free from danger and hazards which may cause accidents or disease.

SUPPLIED. Paid, furnished or provided by, or under the control of, an owner or operator.

TOILET. A toilet, with a bowl and trap made in 1 piece, which is connected to the city water and sewer systems or other approved water supply.

§ 153.06 RESPONSIBILITIES OF OWNER AND LANDLORD.

(A) *Owner responsible.* Every owner of a rental dwelling is responsible for violations of duties and obligations imposed by this ordinance even if the duty or obligation is also imposed on the occupant(s) of the rental dwelling, or even if the owner, by agreement, has imposed on the occupant(s) the duty of making sure that the rental dwelling complies with the requirements of this ordinance, applicable provisions of the city code, and the International Property Maintenance Code.

(B) *Cleanliness.* Every owner of a rental dwelling is responsible for keeping that part of the premises which he or she occupies or controls in a clean, sanitary and safe condition in conformance with this ordinance, applicable provisions of the city code, and the International Property Maintenance Code, including any shared or common areas in a multiple family dwelling.

(C) *Obtain license.* The owner or resident agent must obtain a yearly license and pay all license fees as required by this ordinance before the rental dwelling may be rented.

(D) *Drives, parking, sidewalks.* The owner of an apartment building must provide and maintain effective illumination in all exterior parking lots and walkways, parking areas and driveways. Unless agreed upon, the owner of a property adjacent to walkways must use due diligence to keep the walk safe for pedestrians. No such owner or occupant may allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after it has been deposited.

(E) *Discontinuance of service or facilities.* No owner, operator, or occupant may cause any service, facility, equipment or utility required under this ordinance to be removed from, shut off or discontinued, for any occupied dwelling, except for temporary emergencies and temporary interruptions necessary for repairs or alterations.

§ 153.07 RESPONSIBILITIES OF OCCUPANT OR RENTER.

(A) *Access by owner.* Every occupant of a rental dwelling shall give the owner or resident agent access to his or her unit, and that part of the premises which he or she occupies or

controls, at reasonable times for the purpose of inspections and maintenance, and making necessary repairs or alterations on the premises.

(B) *Cleanliness.* Every occupant of a rental dwelling is responsible for keeping his or her unit, and any part of the premises which he or she occupies of controls, in a clean, sanitary and safe condition in conformance with this ordinance, applicable provisions of the city code and the International Property Maintenance Code.

(C) *Disposal of garbage and recyclables.* Every occupant of a rental dwelling shall store and dispose of all his or her rubbish, garbage and waste in a clean, sanitary and safe manner. All rubbish, garbage, and waste must be collected by city sanitation services. The storage of refuse and recyclable collection containers may not be kept in the front yard setback without approved screening or fencing.

§ 153.08 LICENSE REQUIRED.

It is unlawful to operate a rental dwelling in the city without first having obtained a license from the city. An owner must obtain a license for each rental dwelling. If the rental dwelling contains two or more units, and has a common owner and a common property identification number, the owner may obtain a single license for the rental dwelling.

§ 153.09 LICENSE APPLICATION.

(A) The owner of a rental dwelling must submit an application for a license on forms and in the format provided by the city. The owner must give notice, in writing, to the city within 5 business days of any changes to the information contained in the license application. The application must include:

- (1) The owner's name, address, and telephone number, owning partners of a partnership, corporate officers if a corporation; or
- (2) The name and address of a person residing or having a business office and appointed by the owner as an agent for purposes of notices under this ordinance and for services of process upon the owner; or
- (3) The name and address of any managing operator or agent; or
- (4) The name and address of the contract for deed vendor if the rental dwelling is owned under a contract for deed; or
- (5) The legal address of the rental dwelling; and
- (6) The type and number of units within the rental dwelling; and
- (7) The height and the multiple dwelling in stories; and

- (8) The type of structure to be licensed (i.e. single-family, duplex, triplex); and
- (9) The exterior finish of the building.

(B) *Issuance and term.* Upon approval by the City Council, the City Administrator will issue a license to the owner of the rental dwelling. A license is personal to the owner of a specified rental dwelling. No license may be transferred to a purchaser of a multiple dwelling or to any other person or entity. If a rental dwelling is sold, the purchaser may not own or operate the rental dwelling without first obtaining the license provided for in this ordinance. A license will be valid for one (1) year. If a license is issued during the year, the license will be prorated accordingly at the renewal time.

§ 153.10 LICENSE FEES.

The owner must pay an annual license fee, the amount of which will be determined by the City Council. The fee schedule shall be set by resolution by the City Council. The owner must submit the required fee along with the application for a new or renewal license. Applications for renewal license submitted after the license term expiration are subject to a penalty fee, which shall be determined from the time by the City Council.

§ 153.11 ISSUANCE OF LICENSE.

(A) *Preliminary inspection and investigation.* Prior to issuing a license, the Enforcement Official will inspect the rental dwelling to determine compliance with this ordinance, the city code and the International Property Maintenance Code. The Enforcement Official will review the application for completeness and determine whether all real estate taxes and municipal utilities are paid and current.

(B) *Compliance order.* If the rental dwelling is not in full compliance with this ordinance, the city will provide the owner or resident agent with a compliance order pursuant to § 150.14. If the owner corrects the items in the compliance order within the specified period of time, the city will issue a license to the owner.

(C) *Unsafe or dangerous conditions.* No owner or resident agent may operate a rental dwelling, regardless of the type of license issued, if the Enforcement Official determines that a condition exists in or on the rental dwelling or premises that is unsafe or poses an imminent danger to the health or safety of the tenants or the public. Any determination by the Enforcement Official is subject to suspension or revocation of the license, criminal prosecution and any civil remedies available to the city.

(D) *Posting of license.* The owner shall post a copy of the license in the rental dwelling in a conspicuous place. In multiple dwelling units requiring a single license, the license shall be posted in a common area of the building such as a corridor, hallway or lobby. The posted license shall be framed with clear glass or plastic.

(E) *Renewal of license.* An owner may continue to rent a dwelling after the expiration day of the license provided the owner has filed with the city on or before January 1st, the appropriate renewal license application and license fee. The issuance of a license under this ordinance shall be considered a privilege and not an absolute right of the owner and shall not entitle the owner to an automatic renewal of the license. Allowing the owner to continue to rent while the renewal is being processed does not obligate the city to automatically renew the license.

(F) *Transfer of license.* Licenses are not transferable. Any change in the ownership of the rental dwelling requires a new license.

(G) *Register of occupancy.* The owner or its resident agent shall keep a current register of occupancy for each rental dwelling. This register of occupancy may be reviewed by the city at the time. Said register of occupancy shall contain, at a minimum, the following information:

- (1) Address(es) of the rental dwelling;
- (2) Number of bedrooms of each unit;
- (3) Number of units in each building; and
- (4) Number of adults and children (under 18) currently occupying each unit.

§ 153.12 INSPECTIONS.

(A) *Inspections.* The city will inspect all rental dwellings periodically to determine compliance with this ordinance, the city code and the International Property Maintenance Code. After each inspection, the city shall provide the owner or resident agent with a compliance order pursuant to this section. The owner or resident agent must correct the violations within the time period specified in the compliance order. If the violations are not corrected, the city may suspend or revoke the license under this section, unless it is the initial license period, in which case, the license is valid until the end of the owner's existing lease with the current tenant as noted in this section. The city may, however, immediately suspend or revoke a license if an unsafe or dangerous condition exists.

(B) *Occupant initiated inspections.* An occupant who believes that his or her rental dwelling is not in compliance with the provision of this ordinance, city code or the International Property Maintenance Code may provide written notice to the owner or resident agent of the rental dwelling specifying the alleged deficiency. If the owner or resident agent does not take action to correct the alleged problem the occupant may contact the city and request an inspection of the rental dwelling by the Enforcement Official upon showing proof that the owner or resident agent had been properly notified and has been given a reasonable time in which to correct deficiencies. The cost of the inspection shall be paid by the owner if the city's inspection reveals actual deficiencies as described by the occupant.

§ 153.13 CONDUCT ON LICENSED PREMISES; VIOLATIONS.

(A) *Owner responsible.* It shall be the responsibility of the owner or resident agent to see that persons occupying the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. This section applies to all licenses. For purposes of this section, a rental dwelling is disorderly at which any of the following activities occur:

- (1) Violation of M.S. Chapter 609 Gambling, Prostitution and Disorderly Conduct;
- (2) Violation of M.S. Chapter 152 Controlled Substances;
- (3) Violation of M.S. Chapter 340A Sale & Consumption of Alcohol;
- (4) Violation of M.S. Chapter 624 Sale & Use of Weapons; or

(B) *First violation.* Upon determination by the Enforcement Official that a licensed premises was used in a disorderly manner, as described in division (A) of this section, the Enforcement Official must give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

(C) *Second violation.* If another occurrence of disorderly use of the licensed premises occurs within 6 months of an incident for which a notice in division (B) of this section was given, the Enforcement Official must notify the licensee of the violation and must also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report must be submitted to the Enforcement Official within five (5) days of receipt of the notice of disorderly use of the premises and must detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding six (6) months.

(D) *Third violation.*

(1) If another instance of disorderly use of the licensed premises occurs within 1 year after any 2 previous instances of disorderly use for which notices were given to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended or not renewed. Written notification will be issued by the Enforcement Official. Such written notice must specify all violations of this section, and must state the date, time, place and purpose of the hearing. The hearing must be held no less than ten (10) days and no more than sixty (60) days after giving such notice.

(2) Following the hearing, the City Council may deny, revoke, suspend or decline to renew the license for all or any part or parts of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.

(F) *No adverse action pending eviction.* No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pending of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings are not a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.

(G) *Finding of disorderly conduct.* A determination that the licensed premises have been used in a disorderly manner as described in division (A) of this section shall be made upon a fair preponderance of the evidence to support such a determination. It is not necessary that criminal charges be brought in order to support a determination of disorderly use nor does the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(H) *Service of notices.* All notices given by the city under this section must be personally served on the licensee, sent by certified mail to the licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed premises.

(I) *Enforcement actions.* Enforcement actions provided in this section are not exclusive, and the City Council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the city code, state or federal law.

§ 153.14 CONDITION OF LICENSED PREMISES.

(A) *Compliance order.* Whenever the Enforcement Official determines that the condition of any rental dwelling or the premises surrounding it fails to meet the provisions of this ordinance, other applicable city code provisions or the International Property Maintenance Code, he or she may issue a compliance order setting forth the specific violations and ordering the owner to correct such violations.

(B) *Contents of the compliance order.* The compliance order shall:

- (1) Be in writing;
- (2) Describe the location and nature of the violations;
- (3) Set forth a reasonable time for the correction of the violations by the owner or resident agent; and
- (4) Be served upon the owner and resident agent either personally or by certified mail. A copy of the compliance order shall also be provided to the occupants of the rental dwelling.

(C) *License action.* If the violations listed in the compliance order are not remedied by the owner or resident agent within the specified time given in the order, the license for the rental dwelling may be denied, suspended, revoked, or not renewed by the city. An administrative fine in an amount set forth from time to time by the City Council by resolution may also be imposed. If the city decides that it will be denying, suspending, revoking or not renewing a license or imposing an administrative fine pursuant to this ordinance, the city shall send a notice of the proposed action to the owner and resident agent of the rental dwelling.

(D) *Appeal.* When it is alleged by the owner or resident agent that the compliance order is based upon the erroneous interpretation of this ordinance, other applicable city code provisions or the International Property Maintenance Code, the owner or resident agent may appeal the compliance order to the City Council. Such appeal shall be in writing, must specify the grounds for the appeal, and must be filed with the City within 5 business days after service of the compliance order.

§ 153.15 HEARING PROCEDURE.

(A) *Scheduling of hearing.* If the city makes a determination that it will be denying, suspending, revoking or not renewing a license pursuant to this ordinance, or if the owner or resident agent is appealing the compliance order pursuant to § 153.14, the City Council shall conduct a hearing on the matter. The hearing shall be scheduled at the next regular City Council meeting following the date of the notice or receipt of the owner's notice of appeal of a compliance order.

(B) *Hearing.* At the hearing, the City Council shall hear all relevant evidence and arguments and shall review all testimony, documents and other evidence submitted. The owner or resident agent shall have the opportunity to address the City Council at the hearing.

(C) *Findings.* After the hearing is concluded, the City Council shall make findings on whether to uphold the compliance order or to revoke, suspend, deny or not renew the license or impose an administrative fine. The City Council shall issue a written decision within 30 days following the date of the hearing and shall send a copy of its decision to the owner and resident agent by mail. The decision shall specify the rental dwelling or units to which it applies.

(D) *No occupancy.* If a license is revoked, suspended, denied or not renewed by the City Council, it shall be unlawful for the owner or the resident agent to thereafter permit the occupancy of the rental dwelling or the unit. A notice of the action shall be posted by the Enforcement Official on the rental dwelling or the unit in order to prevent any further occupancy. No person shall reside in, occupy or cause to be occupied that rental dwelling or unit until a license is obtained or reinstated by the owner.

(E) *Appeal.* An owner may appeal the decision of the City Council as allowed under § 153.14D).

§ 153.16 PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Section 2. This ordinance shall take effect upon the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Voting in the negative: None.

Voting in the affirmative: Bosselman, Dufault, Mulry and Offerdahl.

Passed this 10th day of October, 2022.

James Offerdahl, Mayor

ATTEST: _____
Cassie Heide, City Administrator

Member Mulry introduced the following resolution and moved its adoption:

**CITY OF FOSTON
COUNTY OF POLK
STATE OF MINNESOTA**

**RESOLUTION NO. 22-36
RESOLUTION SUPPORTING AND AUTHORIZING APPLICATION FOR AT FUNDS
TO MNDOT**

WHEREAS, the City of Fosston supports and authorizes the grant application made to the Minnesota Department of Transportation Infrastructure Program. The application is to construct a portion of the FIT Trail Expansion. The proposed trail will extend north from the Fosston Sport Complex to 6th St NE.

WHEREAS, the City of Fosston recognizes a match requirement for the Local Trail Connections Program, and has secured the matching funds.

WHEREAS, Chapter 152 of the Fosston City Code includes subdivision regulations and includes regulations requiring safe routes to school infrastructure in developments authorized by the City of Fosston.

Whereas, The Federal Highway Administration (FHWA) requires that states agree to operate and maintain facilities constructed with federal transportation funds for the useful life of the improvement and not change the use of right of way or property ownership acquired without prior approval from the FHWA; and

Whereas, Transportation Alternatives projects receive federal funding; and

Whereas, the Minnesota Department of Transportation (MnDOT) has determined that for projects implemented with alternative funds, this requirement should be applied to the project proposer; and

Whereas, Polk County is the sponsoring agency for the transportation alternatives project identified as FIT Trail Expansion.

WHEREAS, the sponsoring agency hereby agrees to assume full responsibility for the operation and maintenance of property and facilities related to the aforementioned transportation alternatives project.

NOW, THEREFORE, BE IT RESOLVED, that if the City of Fosston is awarded a grant by the Minnesota Department of Transportation, the City of Fosston agrees to accept the grant award, and may enter into an agreement with the State of Minnesota for the above referenced project. The City of Fosston will comply with all applicable laws, environmental requirements and regulations as stated in the grant agreement, and

BE IF FURTHER RESOLVED, the City Council of the City of Fosston names the fiscal agent for this project as:

Cassie Heide, Administrator
City of Fosston
220 1st St. E.
PO Box 239
Fosston, MN 56542

BE IT FURTHER RESOLVED, The City of Fosston hereby assures the Fosston FIT Trail Expansion will be maintained for a period of no less than 20 years.

The motion for the adoption of the foregoing resolution was duly seconded by member Bosselman and upon vote being taken thereon, the following voted in favor thereof: Bosselman, Dufault, Mulry and Offerdahl.

And the following voted against same: None.

PASSED AND ADOPTED BY THE CITY COUNCIL OF FOSSTON THIS 10TH DAY OF OCTOBER, 2022.

Jim Offerdahl - Mayor

ATTEST: _____
Cassie Heide, City Administrator

Member Dufault introduced the following resolution and moved its adoption:

**RESOLUTION SETTING A PUBLIC HEARING ON RESOLUTION VACATING
NORTHWOOD AVENUE AND PART OF 8TH STREET WEST IN SAETER ADDITION
TO FOSSTON - RESOLUTION NO. 22-37**

**THE CITY COUNCIL OF THE CITY OF FOSSTON, MINNESOTA DOES HEREBY
RESOLVE AS FOLLOWS:**

WHEREAS, the City Council pursuant to Minnesota Statute 412.851 desires to consider the vacation of all of Northwood Avenue and part of 8th Street West in Saeter Addition to Fosston, described as:

---All of platted Northwood Avenue in Saeter Addition to Fosston for the full width from the northerly boundary of Lot Six (6), Block Two (2) to the southerly boundary of said Lot Six (6), Block Two (2), as extended.---

AND

---That part of platted 8th Street West in Saeter Addition to Fosston for the full width from the westerly boundary of Lot Six (6), Block Two (2), as extended, to the easterly boundary of said Lot Six (6), Block Two (2).---

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FOSSTON,
COUNTY OF POLK, MINNESOTA:**

1. The Council will consider the vacation of such street and public hearing shall be held on such proposed vacation on the 14th day of November, 2022, before the City Council in the City Hall located at 220 East 1st Street, Fosston, Minnesota.
2. The City Administrator is hereby directed to give published, posted and mailed notice of such hearing as required by law.

The motion for the adoption of the foregoing resolution was duly seconded by member Bosselman and upon vote being taken thereon, the following voted in favor thereof: Bosselman, Dufault, Mulry and Offerdahl.

And the following voted against same: None.

Whereupon said resolution was declared passed and adopted this 10th day of October, 2022

James Offerdahl, Mayor

ATTEST:

Cassie Heide, City Administrator

Member Mulry introduced the following resolution and moved its adoption:

RESOLUTION NO. 22-38

**RESOLUTION OF CITY OF FOSSTON APPROVAL OF
TITLE VI PROGRAM PLAN
for CITY OF FOSSTON TRANSIT**

A resolution endorsing City of Fosston Transit Title VI Program Plan.

WHEREAS, the City of Fosston Transit under the Title VI and the Civil Rights Act of 1964, is committed to a Title VI Program that prohibit discrimination by/from City of Fosston Transit based on race, color, or national origin.

WHEREAS, the City of Fosston's must establish a Title VI Program that meets Federal Transit Administration (FTA) guidelines (Circular 4702), as stated and provided in the City of Fosston Transit MnDOT data management system, known as BlackCat, requires the following compliance elements:

- Notification to the Public of their rights under Title VI of the Civil Rights Act;
- A Complaint Procedures and Complaint Form;
- A list of the transit-related Title VI Investigations, Complaints, and Lawsuits;
- A Public Participation Program;
- A Language Assistance Plan to ensure reasonable access to information for those with Limited English Proficiency;
- A chart of the minority status of members of any non-elected decision-making board and/or committees;
- Title VI training program for staff; and
- Governing Body/Organizational Body Resolution adopting Title VI Program Plan.

BE IT RESOLVED THAT City of Fosston Transit will follow the Title VI Program Plan compliance elements to ensure all passengers and staff are treated equally.

BE IT RESOLVED THAT City of Fosston Transit shall review and adopt or update all Title VI Program requirements every three (3) years. Said adoption or updates will include a public comment period for input in program plan.

BE IT FURTHER RESOLVED THAT City of Fosston City Council authorizes the Dyana Dunnigan and/or Cassie Heide to implement and oversee compliance of City of Fosston Transit 2023 Title VI Program.

The motion for the adoption of the foregoing resolution was duly seconded by member Bosselman and upon vote being taken thereon, the following voted in favor thereof: Bosselman, Dufault, Mulry and Offerdahl.

And the following voted against same: None.

Whereupon said resolution was declared passed and adopted this 10th day of October, 2022

James Offerdahl, Mayor

ATTEST:

Cassie Heide, City Administrator

Council considered approval of an animal boarding agreement between East Polk Canine Kennel and the City of Fosston. Animals running at large within the city will be brought to the kennel by law enforcement as necessary. Heide noted the agreement shall be for a two (2) year period. The city will be invoiced according to boarding fees set forth in the agreement.

Motion was made by Bosselman, seconded by Mulry to approve the animal boarding agreement between East Polk Canine Kennel and the City of Fosston. Motion carried by unanimous vote.

Council considered approving a farm lease with Jeff Broadwell for 2023-2025. The lease is for 121 acres in the City of Fosston and Broadwell has farmed these acres in past years.

Motion was made by Dufault, seconded by Bosselman to approve the farm lease with Jeff Broadwell for 2023-2025. Motion carried by unanimous vote.

Council considered approving two farmland leases with Mike Theis for 2023. The lease is for 9.2 and 41 acres in the City of Fosston and Theis has farmed these acres in past years. Heide informed the council there was no changes to either farm lease.

Motion was made by Bosselman, seconded by Dufault to approve the two farmland leases with Mike Theis for 2023. Motion carried by unanimous vote.

Council considered approval of pay estimate No. 3 in the amount of \$25,198.75 to Polk County for the 2022 SRTS Sidewalk Improvements. The retainage is the only item that remains unpaid.

Motion was made by Dufault, seconded by Mulry to approve pay estimate No. 3 in the amount of \$25,198.75 to Polk County for the 2022 SRTS Sidewalk Improvements. Motion carried by unanimous vote.

Council considered approval of pay estimate No. 1 in the amount of \$8,103.50 to Lenex Sand & Gravel for the Veterans Memorial Gazebo and Walks project. Kinnen noted that the concrete pad for the gazebo is completed, and the sidewalks are scheduled to be completed yet this fall.

Motion was made by Bosselman, seconded by Dufault to approve pay estimate No. 1 in the amount of \$8,103.50 to Lenex Sand & Gravel for the Veterans Memorial Gazebo and Walks project. Motion carried by unanimous vote.

Cariveau, Widseth was present to discuss the Wastewater Expansion project & 2023 Street & Utility Improvement project. Cariveau noted that the wastewater permit renewal will hopefully be completed by early December. As requested by staff, Cariveau provided an estimate on what it would cost the city to do the north & south pond construction in two phases. Phase 1 (south pond) would be approximately \$8,000,000 and Phase 2 (north pond) would be approximately \$8,000,000; whereas the full project at this time is \$12,000,000.

Cariveau reported on the 2023 Street & Utility Improvement project. Lyseng has indicated that watermain replacement on Schedule D – North Johnson Avenue and Schedule G – South Johnson Avenue is a priority. The cost estimate of this project, excluding engineering is \$1,062,000. Heide noted that the city plans to assess property owners 20% of the cost due to this primarily being a watermain replacement project. Heide will wait to bond until further in the process in the event changes are made. Cariveau stated he will have plans & specs ready for approval at next meeting.

Keith Kinnen, Karvakko was present to discuss the Airport, FIT Trail Expansion, Industrial Park/ T Hanger/Airport utilities project & Safe Routes to School project.

Kinnen noted that Lenex Sand & Gravel has completed the concrete pad for the Veterans Memorial Gazebo. They are working on the sidewalk along the south side of the library and will then complete the concrete walks connecting Vets Park to the Heritage Center.

Airport – No report.

SRTS – Kinnen reported that Gordon Construction repaired the concrete in question. He noted that the strength was under specification but performed as expected. Retention will be held until next spring to make sure the concrete repairs maintain over the winter. Otherwise, this project is complete, grass is growing well, and it still came in under budget.

FIT Trail Expansion – No report.

Industrial Park, T Hanger & Airport Utilities project – The US Department of Commerce awarded a \$5.8 million grant to the City of Fosston to boost business growth by making infrastructure upgrades needed to expand the city's existing airport and industrial park. This project will provide expanded road, water, wastewater, and natural gas capacity. Construction is scheduled to begin in 2024.

A forum for members of the public present to speak was held. No one from the public wished to speak during this forum.

There being no further business to come before the council, motion was made by Dufault, seconded by Mulry to adjourn. Motion carried by unanimous vote.

Cassandra Heide, City Administrator