

FAIRMONT CITY COUNCIL AGENDA

Friday, September 30, 2022, 5:00 p.m.

Special Meeting

- 1. Roll Call/Determination of Quorum**
- 2. Pledge of Allegiance**
- 3. Approval of Agenda**
- 4. Old Business**
 - 4.1 Ordinance 2022-12 – Regulating the Discharge of Manure Within City Limits (02)**
- 5. Adjournment**



Fairmont City Council
September 30, 2022

Agenda Item: 4.1

From: Peter Bode, Planner & Zoning Official
To: Mayor and City Council

Subject: Ordinance 2022-12 – Regulating the Discharge of Manure within City Limits

Policy/Action Requested: Motion to approve Ordinance 2022-12
Vote Required: _____ Simple Majority Roll Call

Recommendation: Approval

Overview: On June 27, 2022, the City Council adopted an emergency interim ordinance placing a moratorium on the spreading of manure within city limits and directed staff to study a permanent update to ordinances. After reviewing existing ordinances, the need to update them became apparent through the complaints received from several residents regarding odors emanating from the discharge of manure in residential districts.

In addition to conversations with the Minnesota Pollution Control Agency, Martin County, and city residents, staff reached out to farmers and owners of farmland in city limits to study the topic, advise them of the interim ordinance, and gather input on the development of a permanent ordinance. Recognizing that Fairmont is an agricultural community, staff’s goal in drafting this proposed ordinance was to allow area farmers to continue their usual responsible practices while also protecting residents from excessive manure spreading.

In discussing with farmers in-person and over the phone, staff gathered feedback about how close to residences manure should be spread – ranging from 100 to 500 feet. 200 feet emerged as a reasonable distance from these conversations. Additionally, general agreement could be found that manure should be immediately incorporated into the soil.

Ordinance 2022-12 as drafted amends the City’s nuisance codes to do three basic things:

1. Prohibits manure from being discharged on land zoned for residential or business use. This land (yellow and red on the attached map) is the closest to the center of the developed city where commercial farming is already prohibited unless as an existing use. All business districts are intended for some form of residential use, and the Comprehensive Plan envisions that residential and business districts will blend to a degree in the future.
2. Allows manure to be spread on agricultural and industrial land that is 200 feet away from the boundary of residential and business zones. Most farmland within city limits is zoned agricultural or industrial (green and purple on the attached map).
3. Requires that manure be incorporated into the soil immediately following discharge.

Staff recommend Council approve the ordinance.

Budget Impact: N/A

Attachments: (1) Ordinance 2022-12
(2) Zoning Map
(3) Emergency Interim Ordinance

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Council Action: _____ Date: _____

ORDINANCE 2022-12

**STATE OF MINNESOTA
COUNTY OF MARTIN
CITY OF FAIRMONT**

AN ORDINANCE AMENDING CHAPTER 17 OF THE CITY CODE TO ESTABLISH REGULATIONS ON THE DISCHARGE OF MANURE WITHIN THE CITY LIMITS

WHEREAS, the Fairmont City Council adopted an interim ordinance establishing a moratorium on the discharge of manure within the City, to expire October 1, 2022, with the purpose of protecting the planning process and the health, safety, and welfare of the citizens of Fairmont; and,

WHEREAS, the Fairmont City Council authorized a study to be conducted to update the City’s nuisance ordinances and to determine whether and to what extent it should regulate the discharge of manure within the City; and,

WHEREAS, the City of Fairmont engaged in conversations with area farmers, residents, the County of Martin, and the Minnesota Pollution Control Agency to develop a local ordinance regulating the discharge of manure; and,

WHEREAS, The Fairmont City Council makes the following findings of fact to support its decision:

1. The City of Fairmont has not adopted a nuisance ordinance regulating the discharge of manure within the City.
2. Unregulated discharge of manure can be injurious to health, emanate indecent or offensive odors, and obstruct the comfortable enjoyment of life or property.
3. Regulations set upon the discharge of manure can prevent a nuisance occurring by establishing setbacks from residential property, allowing manure to be discharged in certain zones, and requiring manure be incorporated immediately after discharge.
4. Existing state and county controls related to the discharge of manure do not prevent a nuisance from occurring due to the action’s proximity to residential property.
5. Minnesota Statutes 462.357 Subd. 1d. grants cities the authority to regulate land use by providing for the prevention or abatement of nuisances.

NOW THEREFORE, the City of Fairmont does ordain that Fairmont City Code, Chapter 17 – Nuisances shall be amended by inserting the following:

“Section 17-3. Discharge of Manure

(a) **Purpose.** Minnesota Statutes 462.357 Subd. 1d. grants cities the authority to regulate land use by providing for the prevention or abatement of nuisances. A nuisance is defined by Minnesota Statutes 561.01 as anything which is injurious to health, indecent or offensive to the senses, an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property. Unregulated discharge of manure can be injurious to health, emanate indecent or offensive odors, and obstruct the comfortable enjoyment of life or property. Regulations set upon the discharge of manure can prevent a nuisance occurring by establishing setbacks from residential property, allowing manure to be discharged in certain zones, and requiring manure be incorporated immediately after discharge.

(b) Definitions.

Discharge as referenced in this section shall have the following meaning: the application of manure to land by a person using any form of equipment by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or any other means.

Liquid manure as referenced in this section shall have the following meaning: poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials in liquid form.

Manure as referenced in this section shall have the following meaning: poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials, in solid form, liquid form, or any combination thereof.

Incorporate as referenced in this section shall have the following meaning: to work or otherwise integrate the manure into the soil.

Person as referenced in this section shall have the following meaning: an individual, partnership or business, whether or not organized as a separate legal entity.

(c) General Provisions.

1. Manure may only be discharged inside city limits in accordance with the following limitations and requirements:

a. Property Zoned R-1, R-2, R-3, R-4, R-2S, B-1, B-2, B-3: No manure shall be discharged.

- b. Property Zoned I-1, I-2, A: Manure may be discharged in compliance with all requirements of this section.
2. Regardless of zoning, no liquid manure may be discharged within 200 feet of the property line of any parcel zoned R-1, R-2, R-3, R-4, R-2S, B-1, B-2, or B-3.
3. Regardless of zoning, liquid manure shall be incorporated into the soil immediately following discharge.

(d) Violations and Enforcement.

1. **Violation a Misdemeanor.** Any person who shall violate any provision of this section or who shall fail to comply with any provisions hereof shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.
2. **Stop Work Orders.** Whenever any work is being performed contrary to the provisions of this Ordinance, the City may order the work stopped by written notice personally served upon the person performing the work or upon the owner of the property upon which the work is being performed. All activities shall cease and desist until subsequent written authorization to proceed is received from the City
3. **Injunctive Relief and other Remedies.** In the event of a violation of a provision of this section, the City may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent restrain, correct, or abate such violations.”

Passed and adopted by the City Council of Fairmont, Minnesota, this 30th day of September 2022.

Deborah J. Foster, Mayor

ATTEST:

Patricia Monsen, City Clerk

Motion by: Council Member

Seconded by: Council Member

All in Favor: Council Member

Opposed:

Abstained:

Absent:

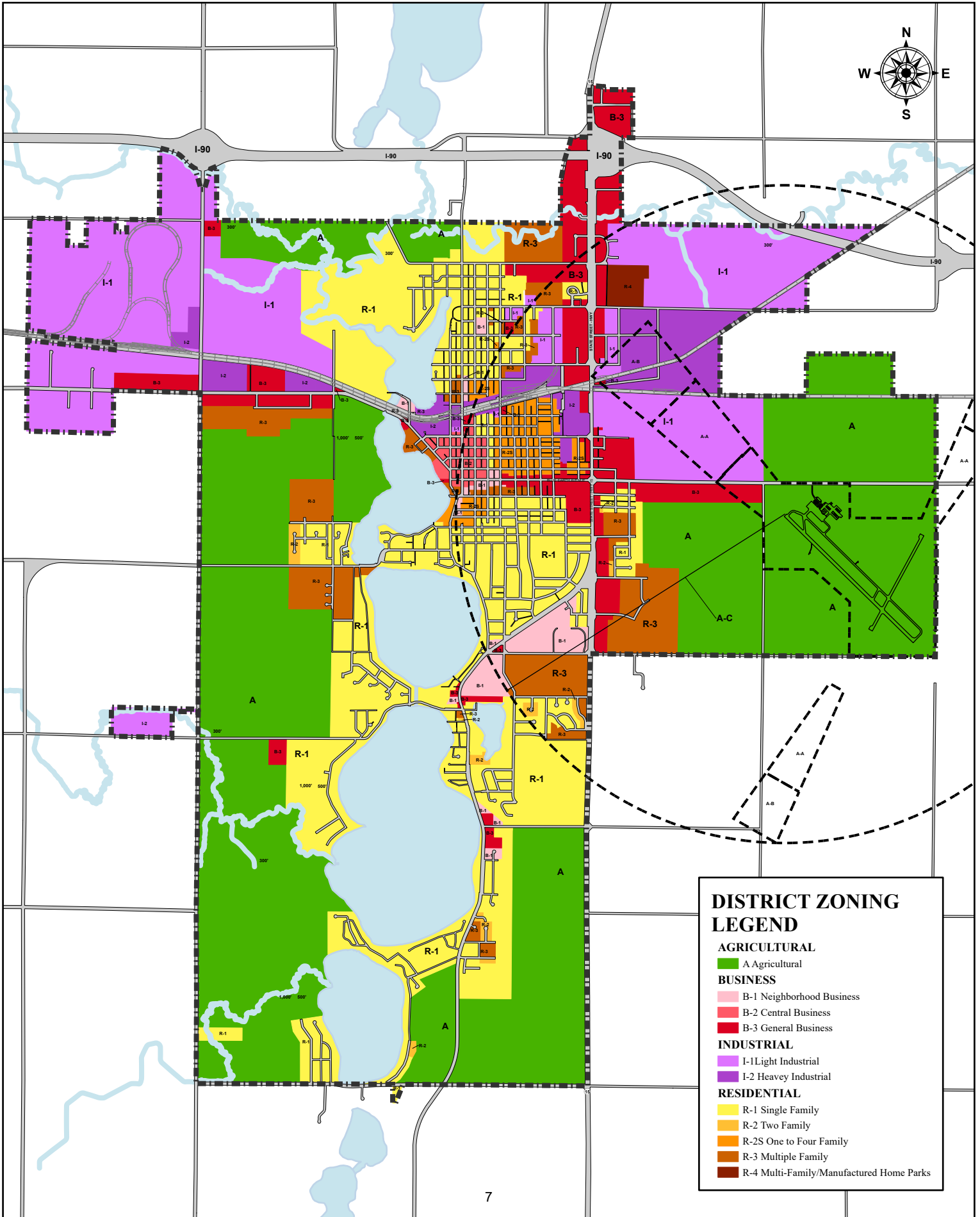
1st Reading: September 26, 2022

2nd Reading: September 30, 2022

CITY OF FAIRMONT ZONING MAP

CITY OF FAIRMONT, MN

December 2019



DISTRICT ZONING LEGEND	
	AGRICULTURAL A Agricultural
BUSINESS	
	B-1 Neighborhood Business
	B-2 Central Business
	B-3 General Business
INDUSTRIAL	
	I-1 Light Industrial
	I-2 Heavy Industrial
RESIDENTIAL	
	R-1 Single Family
	R-2 Two Family
	R-2S One to Four Family
	R-3 Multiple Family
	R-4 Multi-Family/Manufactured Home Parks

ORDINANCE 2022-08

AN INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON THE DISCHARGE OF MANURE WITHIN THE CITY LIMITS

WHEREAS, the Fairmont City Council has not adopted an ordinance regulating the discharge of manure within the City; and

WHEREAS, the performance standards in the City Code regulating odors requires updating; and

WHEREAS, complaints have been received from multiple property owners regarding odors emanating from the discharge of manure in residential districts; and

WHEREAS, the City requires time to evaluate the impact of the discharge of manure within the City and the impact of those actions on the health, safety and welfare of its residents; and

WHEREAS, the City Council hereby authorizes a study to be conducted to update the City's nuisance ordinances and to determine whether and to what extent it should regulate the discharge of manure within the City; and

WHEREAS, the City Council has the authority to adopt an Interim Ordinance/moratorium during which time the City will conduct a study on the impact of the discharge of manure within the City and the impact of those actions on the health, safety and welfare of its residents; and

WHEREAS, the City Council makes the following Findings of Fact:

1. The City Council has authorized a study to be conducted for the purpose of considering whether to update the City's performance standards and to determine whether and to what extent it should regulate the discharge of manure within the City.
2. This Interim Ordinance is intended to protect the health, safety and welfare of City of Fairmont residents and to protect the planning process.

NOW, THEREFORE, the City Council of the City of Fairmont does Ordain:

1. **Intent and Purpose.** This Interim Ordinance is adopted with the intent and purpose of:

- a. To protect the planning process under the authority of Minnesota Statutes Section 462.355.
 - b. To protect the health, safety, and welfare of the citizens of Fairmont.
2. **General Provisions.** This Interim Ordinance shall apply to land located within the city limits.
3. **Definitions.**

“Discharge” as referenced in this Interim Ordinance shall have the following meaning: The application of manure to land by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or any other means.

“Manure” as referenced in this Interim Ordinance shall have the following meaning: Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials, in solid form, liquid form, or any combination thereof.
4. **Interim Prohibition on Land Use.** The City Council hereby adopts an Interim Ordinance that prohibits the Discharge of Manure within the city limits.
5. **Violations and Enforcement.** 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 shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.
6. **Enforcement.**
 - a. **Stop Work Orders.** Whenever any work is being performed contrary to the provisions of this Interim Ordinance, the City may order the work stopped by written notice personally served upon the person performing the work or upon the owner of the property upon which the work is being performed. All activities shall cease and desist until subsequent written authorization to proceed is received from the City.
 - b. **Injunctive Relief and other Remedies.** In the event of a violation of this Interim Ordinance, the City may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations.

- c. **Costs of Enforcement Proceedings.** All costs incurred for corrective action may be recovered by the City in a civil action in District Court, or at the discretion of the City the costs may be certified to the County Auditor as a special assessment against the real property. These and other remedies, as determined appropriate by the City, may be imposed upon the responsible person either in addition to, or separate from, other enforcement actions.
7. **Severability and Validity.** It is hereby declared to be the intention that the provisions of this Interim Ordinance are severable in accordance with the following:
- a. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Interim Ordinance, such judgment shall not affect any other provisions not specifically included in said judgment.
 - b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Interim Ordinance to a particular property, such judgment shall not affect other properties.
- 8., **Effective Date.** This Interim Ordinance shall be in full force and effect from and after its passage and approval, as provided by law, until October 1, 2022, or until final adoption of a separate ordinance regulating the Discharge of Manure, whichever shall first occur.

PASSED, APPROVED AND ADOPTED, this 27th day of June 2022.

Motion by:	Council Member Miller
Seconded by:	Council Member Peters
All in favor:	Council Members Peters, Hasek, Lubenow and Miller
Opposed:	Council Member Kawecki
Abstained:	None
Absent:	None

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk