ORDINANCE NO. 1387

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 8, APPENDIX B,
OF THE CODE OF THE CITY OF JAMESTOWN
PERTAINING TO REQUIRED IMPROVEMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, NORTH DAKOTA, that Section 8, Appendix B, of the Code of the City of Jamestown is hereby amended and re-enacted as follows:

SECTION 8. Required Improvements.

A. Before giving final approval to any subdivision within the city limits, the Planning Commission will require that the following improvements are either (a) constructed and in place, or (b) assured of completion by the Developer under one of the following options:

1. Option I: Developer providing 100% of the cost of required improvements:

   (a) Filing with the City Auditor an itemized breakdown of the estimated costs of the proposed public improvements that has been reviewed by the City Engineer's office.

   (b) A copy of the City Engineer's review as set forth in Part B below shall accompany the estimate. The sufficiency of said amount shall be determined on the basis of estimates by the City Engineer in his review.

   (c) An amount equal to 100% of the amount the Council shall determine to be a fair and accurate estimate of the cost of the proposed improvements shall be deposited with the City Auditor prior to commencement of any improvements.

   (d) All improvements shall be constructed and paid for in accordance with current City of Jamestown specifications and in accordance with state law.

   (e) In any event, the Developer making such deposit shall be held accountable to the city to the extent the amount on deposit with the City is insufficient to defray the actual 100% costs of such improvements including costs incurred by the City, but not limited to, cost for the engineering, legal, administrative, financing and contracting costs it incurs.

2. Option II: Developer providing 25% of total costs of the required improvements to the city with balance to be funded with the use of special assessment pursuant to city ordinances and state law.

   (a) Filing with the City Auditor an itemized breakdown of the estimated costs of the proposed public improvements that has been reviewed by the City Engineer's office.

   (b) A copy of the City Engineer's review as set forth in Part B below shall accompany the estimate. The sufficiency of said amount shall be determined on the basis of estimates by the City Engineer in his review.

   (c) An amount equal to 25% of the amount the Council shall determine to be a fair and accurate estimate of the cost of the proposed improvements shall be deposited with the City Auditor prior to commencement of any improvements.

   (d) All improvements shall be constructed and paid for in accordance with current City of Jamestown specifications and in accordance with state law.

(e) In any event, the Developer making such deposit shall be held accountable to the City to the extent the amount on deposit with the City is insufficient to defray the actual 25% costs of such improvements including costs incurred by the City, but not limited to, cost for the engineering, legal, administrative, financing and contracting costs it incurs.

(f) The balance of the cost of improvements over and above that required to be paid by the Developer and deposited by the Developer with the City Auditor herein may be paid for by way of Special Assessments in the manner provided by law.

B. No improvements shall be made unless and until all necessary plans, profiles and specifications therefore shall have been submitted to and approved by the City Engineer and approved by the City Council.

1. At the time such plans, profiles and specifications are submitted for review, the City Engineer shall prepare an estimate of cost for office checking and field inspection of all improvements. All work done by the City Engineer in connection with checking, computing and correcting such plans for improvements and in connection with field inspection of the construction thereof, shall be charged to the Developer's deposit with the City. If, during the progress of the work, it shall appear that the cost of the project will exceed the amount so deposited, the City Engineer shall notify the Developer of this fact and shall do no further work in connection with such review or field inspection until the Developer has deposited the additional amount of money necessary to cover the cost of the work.

2. Upon approval of the development project the Developer shall, prior to the award of any contract on the development, deposit with the City Auditor an amount of money equal to that required under the Option selected by the Developer. Such deposit may be in the form of negotiable securities, cash, or non-revocable letters of credit to be drawn on to fund the project costs. All bonds, letters of credit, sureties or other securities deposited with the City as required under this section or pursuant to state law for special assessments shall continue in effect until the applicable bills are paid, the property has been developed and the improvements accepted by the City.

3. Upon the completion of the work of checking plans and inspecting the construction of improvements, the City Engineer shall forward to the City Auditor a statement of the amount of the engineering and inspection costs to be charged against the deposit made by the Developer. The City Auditor shall thereupon refund to the Developer any unexpended balance of such deposits. If such engineering and inspection charges shall for any reason exceed the amount of the deposits, the Developer shall pay and the City Auditor shall collect the balance due. Upon payment, the City Auditor shall issue a statement that such charges have been paid.

4. Upon completion of the project, the Developer must obtain a written certification that construction was performed in accordance with City specifications and this Section and the development improvements must be formally accepted by the City which it shall do upon substantial completion of the project as determined by the City Engineer.

5. The improvements required to be made by the Developer under this section shall be:

(a) Water and sewer mains constructed and in place.
(b) Streets and alleys brought to grade and acceptable drainage system in place.
(c) Approved street and alley surface upon completion of water and sewer main installation.
(d) Slope protection when necessary and required by the City Engineer.
(e) Curb and gutter construction
(f) All in compliance with City Storm Water Management Plan

6. Other improvements that may be required of the Developer by the City:

   (a) Retaining ponds
   (b) Sidewalks
   (c) Fencing
   (d) Street Lighting
   (e) Sounds barriers
   (f) Green spaces
   (g) Plantings of vegetation
   (h) Park Lands
   (i) Drainage ditches
   (j) Such other improvements deemed necessary by nature and location of project

7. Protective measures required on slopes.

   (a) Slope protection measures are required to be performed by the Developer at any time when either of the following situations exist:

      (1) Any portion of the area being excavated is a natural drain area.

      (2) When finished grades are in excess of three percent, or where natural cover has been disturbed.

   (b) For any excavation, made pursuant to this article, where protective slope measures are required, the following shall be used according to the specific excavation being performed.

      (1) Retaining walls of sufficient size and strength to securely retain the soil which such walls are holding, where the slope exceeds a ratio of two to one. Loose laid rip-rap shall not be acceptable.

      (2) Stake sod where the slopes are between the ratios of two to one and four to one.

      (3) Seeding with quick germinating seed where the ratio of the slope is less than four to one.

      (4) Seeding with quick germinating seed over the entire area which has been disturbed in addition to the actual slopes or banks.

      (5) Storm sewer, culverts or other specific drainage facility to be installed where, in the opinion of the City Engineer, they are required for protection of the property. Engineer design information shall be provided by the Developer.

8. Seeding requirements.

   (a) The quick germinating seed required under Section 8, Paragraph B, Subsection 7, shall be of a uniform mixture of approved first quality seed, certified as to purity and germination, and shall be proportioned by weight according to the following formula:

Percent by Weight	Kind of Grass	Percent Purity	Germina-tion Min. Percent
50%	Crested Wheat Grass	93%	85%
25%	Slender Wheat Grass	90%	85%
25%	Western Wheat Grass	90%	85%

(b) The seed shall be sown at the rate of sixteen pounds per acre and sixty pounds of ammonium nitrate. Thirty-three and one-half percent nitrogen per acre shall be spread on the soil prior to seeding or by means of fertilizer attachments on the drill. Ammonium nitrate shall not be mixed with the seed. If seeding is performed before the fifteenth day of July, twenty pounds of oat seed per acre shall be added to the above mixture and if seeding is performed after the fifteenth day of July, thirty pounds of rye seed shall be added to the above mixture per acre.

(c) If seed of the specified germination cannot be obtained, additional seed shall be used to bring the amount of live seed up to the amount required by specified germination.

9. Responsibility for germination of grass seed. It shall be the responsibility of the Developer under this article to maintain and water the planted seed until the time as the minimum percent germination has been accomplished. In addition, it shall be the responsibility of the Developer to maintain and water all sodded surfaces until such time as eighty-five percent of the sodded area has successfully resumed growth. The Developer shall be required to reseed or resod any areas in excess of ten square feet which do not successfully germinate or resume growth.

10. Work to be completed within forty-five days. The seeding, sodding or construction of retaining walls, or construction of culverts, storm sewers or other facilities for drainage, must be completed within forty-five days after work is commenced. It shall be unlawful for any person to leave any excavated area uncompleted beyond the expiration of the time provided in this section.

C. Improvements outside of the city. Prior to the construction of any public improvements upon property within a subdivision outside of the city limits, but within the city's subdivision jurisdiction, the following improvements shall be required:

1. Streets: New streets, roads, and bridges shall be constructed and installed in accordance with the approved street, drainage, and grading plan, and with the requirements of the township and county for acceptance for maintenance or an agreement entered into between the Developer and the township or county relative to maintenance. All streets and roads, other than direct residential driveways, shall be dedicated to the public.

2. Drainage: Drainage facilities shall be installed in a manner that is consistent with the approved street, drainage and grading plan.

3. Sewer and water supply: All sewer and water facilities shall conform with approved wastewater treatment plan and water plan, and with all requirements imposed by the City and County regulating the placement, location, construction, operation, and inspection of wastewater treatment and water facilities.

4. Access Roads: All access roads shall be constructed in compliance with the right of way access requirements of the City.

D. The City Council shall evaluate each project submitted pursuant to this Section and approve or reject the proposed project. The City may elect, in the best interests of the city and in light of potential costs and liabilities it might incur in the event of a default in the payment of special assessments related to an improvement project, to condition its approval upon the consideration and/or possible incorporation into the project requirements of one or more of the following:

1. Require and approve a submission of financial information of the Developer establishing an ability to fulfill financial obligations of the Developer related to project and any other projects for which the Developer has assumed a financial responsibility.

2. Limitations on the size of any development project.

3. Limitations on the number of development projects resulting in outstanding special assessments under this Section at any given time.

4. Limitations on the total amount or type of special assessments that may be approved within the City at any given time.

5. Require payment in full of outstanding special assessments on a lot upon sale of the lot by the Developer.

6. Require a bond to cover the Developer's portion of special assessments as they may exist from time to time conditioned upon the Developer keeping taxes and special assessments current upon lots owned or controlled by the Developer.

7. Require the Developer to agree to pay in full any outstanding special assessments remaining unpaid five years from date of initial approval of assessment.

8. Such other requirements deemed appropriate at the time of project approval by the City Council based upon the proposed development plan submitted by the Developer.

ATTEST:

Jeff Fuchs
City Administrator

APPROVED:

Katie Andersen
Mayor

Introduced by Council Member Gumke

Seconded by Council Member Kourajian

First Reading: November 5, 2012

Second Reading: December 3, 2012

Final Passage: December 3, 2012

Roll Call No. 6 showed: 3 ayes, 2 nays (Buchanan and Brubakken), 0 absent.