ORDINANCE No. 1314

AN ORDINANCE TO ENACT CHAPTER 31 OF THE CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA, PERTAINING TO STORM WATER MANAGEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, NORTH DAKOTA, PURSUANT TO THE HOME RULE CHARTER OF THE CITY OF JAMESTOWN, THAT CHAPTER 31 OF THE CODE OF THE CITY OF JAMESTOWN, IS HEREBY ENACTED TO READ AS FOLLOWS:

CHAPTER 31
STORM WATER MANAGEMENT

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ARTICLE I. GENERAL PROVISIONS.

SECTION 31-01. Purpose and Policy.

This title sets forth uniform requirements for Storm Water management systems within the City and its extraterritorial jurisdiction. It is the intent of the City Council that the requirements and standards contained in this ordinance comply with all applicable state and federal laws. In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control, shoreline protection, or floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this title are:

(1) To promote, preserve, and enhance the natural resources within the City of Jamestown, its extraterritorial jurisdiction and water sheds;

(2) To protect and promote the health, safety, and welfare of the people and property through effective Storm Water management practices;

(3) To protect the City's natural resources from adverse impacts occasioned by development or other activities;

(4) To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

(5) To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

(6) To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, water sheds and to persons outside the city who are, by contract or agreement with the city, users of the City Storm Water System, thereby achieving a balance between urban growth and development, and the protection of water quality; and

(7) To provide for adequate Storm Water system analysis and appropriate Storm Water system design as necessary to protect public and private property, water quality, and existing natural resources. This title establishes and provides for the following Storm Water management criteria:

(a) The regulation of development through the issuance of Storm Water permits and through the enforcement of general Storm Water drainage requirements throughout the City as they relate to managing Storm Water volumes, rates of run off, flow duration, and their subsequent impacts to downstream property and Storm Water management facilities.

(b) The regulation of, and the establishment of criteria for, existing and planned public underground storm sewers, artificial and natural open channel drainage systems, Storm Water detention and retention ponds, and private Storm Water drainage systems discharging into the public system.

(c) Provides for Storm Water management system user charges, application fees, permit fees

and a fair and equitable method for calculating charges for each user classification. Procedures for rate adjustment and annual review criteria are established.

(d) Penalties for violating the provisions of this ordinance, and the orders, rules, regulations and permits issued hereunder.

(8) The establishment of a storm water system utility for the City of Jamestown, ND.

SECTION 31-02. Definitions.

For the purpose of this ordinance and title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. Words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person wishing to obtain a building permit, special use permit, zoning or subdivision approval.

Base Flood: A flood having a one percent chance of being equaled or exceeded in any given year (i.e. 100-year flood). It is also referred to as the regional flood.

City: The Council of the City of Jamestown.

Control Measure: A practice or combination of practices to control erosion and attendant pollution.

Construction: Any site under development which lacks vegetative or permanent cover.

Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.

Detention Facility: A natural or manmade structure, including wetlands, for the temporary storage of runoff.

Development Properties: Lands and properties located within an approved Storm Water management permit boundary.

Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency or political subdivision thereof engaged in a land disturbance and/or land development activity.

EPA: United States Environmental Protection Agency.

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and Sediment Control Plan: A written description containing best management practices designed to meet the requirements of this ordinance.

Extraterritorial Jurisdiction: The extension of the City's zoning and planning authority to all unincorporated land located within one (1) mile of the corporate limits of the City as authorized by the North Dakota Century Code and any other authority granted by agreement with Stutsman County or the State of North Dakota regarding building and/or storm water issues.

Flood Fringe: That portion of the flood plain outside of the floodway.

Floodplain: The areas adjoining a water course or water basin that have been or may be covered by a regional or base flood.

Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Includes but is not limited to technical and non-technical studies, policies, and management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainage ways, outfalls, or other conveyances.

Floodway: The channel of a water course and the bed of water basins, that carries and discharges floodwater.

Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Hydrophilic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious Area: Surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.

Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.

Land Disturbing Activity: Any manmade change of the land surface including removing vegetative cover, excavating, filling and grading.

Landowner: Any person holding title to or having an ownership interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.

Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries.

Major Storm Water System: The portion of the total Storm Water system that collects, stores, and conveys runoff that exceeds the capacity of a minor system. A major storm water system is usually evaluated for the one hundred (100) year runoff event.

Management Practice: A practice or combination of practices to control erosion and water quality degradation.

Minor Storm Water System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. Generally, the minor Storm Water system is designed to accommodate minor (or ordinary) storms classified as two (2) to ten (10) years storms. The system may include but not limited to roof gutters and on-site drainage swales, curbed or side swaled streets, Storm Water inlets, underground storm sewers, open channels and culverts.

Multiple-Purpose Facility: An urban Storm Water facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating Storm Water discharge.

Occupant: Any person using a lot, parcel of land, or premises connected to and discharging storm water into the Storm Water system of the city.

Onsite Detention: See Local Detention.

Outfall: Any storm water outlet which discharges, into a watercourse, pond, ditch, lake or other body of water.

Permanent Development: Any buildings, structures, parking lots, roads, landscaping and related features constructed as part of a development project approved under a Storm Water permit.

Permanent Facilities: Any natural or constructed features of a Storm Water system including, but is not limited to storm sewers, infiltration areas, detention/retention areas, channels, streets, and similar features.

Permittee: Any person who has received a Storm Water permit from the City.

Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency - public or private.

Planning and Zoning Commission: An appointed Commission of the City of Jamestown City Council which is tasked with addressing land use.

Private Drainage Channel: A drainage channel on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Private Storm Sewer: A storm sewer on privately owned land or easements.

Public Drainage Channel: A drainage channel located on public property.

Public Storm Sewer: A storm sewer located entirely on publicly owned land or easements.

Regional Detention: An area which temporarily stores storm water from more than one source.

Regional Flood: A flood that is representative of large floods known to have occurred generally in the state and recently characteristic of what can be expected to occur on an average frequency in the magnitude of a one hundred (100) year recurrence interval. It is also referred to as the base flood.

Retention Facility: A natural or manmade structure that provides for the permanent storage of Storm Water runoff.

Runoff: Rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

Sediment: Solid or organic material that, in suspension, may be transported by air, water, gravity, or ice, and deposited at another location.

Site: The entire area included in the legal description of the parcel or other land division on which land development or land disturbing activity is proposed in a permit application.

Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.

State: The State of North Dakota.

Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

Storm Water Detention: Temporary storage of Storm Water runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks and other similar features for future or controlled release.

Storm Water Management Policy: City code which regulates runoff within a drainage system.

Storm Water Management Criteria: Specific guidance provided to the designer to carry out Storm Water management policies.

Storm Water Management Plan: The plan that a designer formulates to manage urban Storm Water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the site development and grading plan; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review for adoption.

Storm Water Management System: Physical facilities that collect, store, convey, and treat Storm Water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Storm Water Retention: Permanente storm water storage designed to eliminate subsequent surface discharge. Ponds are the most common types of retention storage.

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Unpolluted Water: Any water of quality equal to or better than the effluent criteria in effect, or water that would not cause a violation of receiving water quality standards.

Urban Area: Land associated with, or part of, a defined city or town.

User: Any person who benefits from and/or is regulated by the City Storm Water management policies and facilities.

User Fee: A fee levied on users of a public storm water management system for the user's proportionate share of the cost of operation and maintenance or replacement of such works.

Water Shed: The land area that drains water to a particular stream, river, or lake. It is a land feature that can be identified by tracing a line along the highest elevations between two areas on a map, often a ridge.

Waterway: Any channel, open ditch, or river which carries natural flows or storm water.

Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes.

(1) A predominance of hydric soils;

(2) Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophilic vegetation typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances support the prevalence of hydric vegetation.

SECTION 31-03. Scope.

Every applicant for a building permit, addition, subdivision approval, a permit to allow construction activities that involve digging, grubbing grading and the removal of plant vegetation and any other disturbance of the ground must submit a Storm Water Management Plan to the City. No building permit, subdivision approval or permit to allow construction activities or other disturbance of the ground shall be issued or allowed until approval of the Storm Water Management Plan or a waiver of the approval requirement has been obtained.

The Office of the City Engineer may grant an exemption or waiver to the requirements of this section for the following:

(1) Any part of a subdivision with streets, curb, and gutter for which a plat was approved and recorded with the County Recorder on or before the final adoption of this ordinance;

(2) A parcel for which a building permit was approved on or before final adoption of this

ordinance;

(3) Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles;

(4) The construction of a stand-alone single family dwelling may be exempt from filing a Storm Water Management Plan, but must provide erosion control measures while under construction, or

(5) Emergency work to protect life, limb, or property.

(6) The Office of the City Engineer determines that no significant adverse storm water impact will occur within the site, or otherwise adversely impact upon other projects or adjacent lands, provided such site is less than one acre in size.

The City Council, upon advice of the Office of City Engineer or its designee, may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in any other ordinance. The City may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements.

SECTION 31-04. Depositing, Draining, etc, Harmful Materials into Storm Water System.

It shall be unlawful for any person to discharge, deposit, dump, or drain, or cause to be discharged, deposited, dumped or drained any liquid, solid or material which may degrade storm water quality and/or is prohibited by city, state, federal regulations or policies into the Storm Water System. Such prohibition includes but is not limited to the disposal of fertilizer, chemicals, trash, construction materials, petroleum based products, paints etc. or grass clippings, leaves or other vegetative materials on impervious surfaces or within storm drainage systems, natural or manmade watercourses, wetlands, or wetland buffer areas, except as may be incidental to ordinary mowing or weed control within such areas.

ARTICLE II. STORM WATER MANAGEMENT PLAN - APPLICATION

SECTION 31-05. Application.

A proposed Storm Water Management Plan shall be filed with the Office of the City Engineer. The application shall include a description of the location upon which the approval is requested, verification that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this article.

Two sets of legible copies of the drawings and required information shall be submitted to the Office of the City Engineer. Applicable fees as set forth in the city fee schedule shall be paid prior to commencement of any construction activities. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

SECTION 31-06. Mandatory Compliance with Other City Ordinances, or applicable Laws Rules of Regulations.

In addition to this article, the applicant is responsible for adhering to the requirements of all city codes, including but not limited to the following:

(1) Zoning regulations

(2) The city's flood plain requirements

(3) Laws and Regulations governing the subdivision of land.

SECTION 31-07. Contents of Storm Water Management Plan.

All storm water management Plans, drawings, specifications, and computations for the Storm Water management facilities must be submitted for review to the Office of the City Engineer. Any plan for developments five acres or larger shall contain a validated seal and be signed by a Professional Engineer registered in the state of North Dakota. At a minimum, the Storm Water Management Plan shall contain the following information:

(1) Storm water management Plan Report. A written summary discussing pre and post development hydrology and hydraulic analysis, erosion and sedimentation control measures to be used during and after construction, protective measures for proposed and existing structures, and water quality concerns.

(2) Constructions Plans and Specifications. Plans and specifications submitted as part of the Plan shall contain the following:

(a) Existing site map.

1. The name and address of the applicant, the section, township and range, and the north point, date and scale of drawing, and number of sheets;

2. The location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other defining landmarks;

3. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;

4. A watershed boundary map illustrating the project site location as a sub watershed within the watershed of the larger or major drainage basin;

5. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;

6. Location and dimensions of existing Storm Water drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate Storm Water is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where Storm Water collects or passes;

7. A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of Storm Water management system proposed, and any remedial steps to be taken by the developer to render the soils suitable.

8. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal;

9. The current land use of the area in which the site is located; and

10. The 100-year flood plains, flood fringes, and floodways.

(b) Site Construction Plan.

1. Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;

2. Approximate locations of all temporary soil or dirt stockpile areas;

3. Location and description of all construction site erosion control measures necessary to meet the requirements of this ordinance;

4. A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and

5. Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.

(c) Plans of Final Site Conditions.

1. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;

2. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development;

3. A drainage plan of the developed site delineating the direction and at what rate Storm Water runoff will be conveyed from the site and setting forth the areas of the site where Storm Water will be collected;

4. The proposed size, alignment, and intended use of any structures to be erected on the site;

5. A clear delineation and tabulation of all areas which shall be paved or surfaced,

including a description of the surfacing material to used; and

6. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.

SECTION 31-08. As Built Plan.

Upon completion of all work under an approved storm water management plan, or more frequently as prescribed in the plan itself, the person or persons acting under the authority of such plan shall file with the Office of the City Engineer an "AS BUILT" plan or plans to document any changes or material modifications to the original storm water management plan concept.

SECTION 31-09. Storm Water Management Criteria for Permanent Facilities.

Storm Water control facilities included as part of the final design for a permanent development shall be addressed in the Storm Water Management Plan and shall meet the following criteria:

(1) Pre-versus Post Hydrological Response of Site for areas five (5) acres or larger. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all Storm Water management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. In lieu of the installation or construction of Storm Water management facility, an applicant may, at the discretion of the city council, contribute to the development and maintenance of regional Storm Water management facilities designed to serve multiple land disturbing and development activities.

(2) Natural Features of the Site. The applicant shall give consideration to reducing the need for Storm Water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they existed before development.

(3) Storm Water Management Strategies. Using sound and current engineering practices, the following Storm Water management practices may include but are not limited to the following:

(a) Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a Storm Water Management Plan that encourages natural infiltration.

(b) The use of open vegetated swales and natural depressions.

(c) Storm Water detention facilities.

(d) Storm Water retention facilities (on a case by case basis).

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above four strategies. Justification shall be provided by the applicant for the method selected.

(4) Adequacy of Outlets. The adequacy of any outlet used as a discharge point for proposed Storm Water management facilities must be assessed and documented to the satisfaction of the Office of the

City Engineer. The hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages or any increase in the established base floodplain elevation. If a floodplain or floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the Office of the City Engineer are approved and installed as part of the Storm Water Management Plan. The assessment of outlet adequacy shall be included in the Storm Water Management Plan and shall be certified by a Professional Engineer registered in the State of North Dakota.

(5) Storm Water Detention/Retention Facilities. Storm Water detention or retention facilities proposed to be constructed in the Storm Water Management Plan shall be designed according to the most current and sound engineering practices.

SECTION 31-10. Operation and Maintenance Considerations.

All Storm Water management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All Storm Water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in Storm Water runoff. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the Storm Water management facilities for inspection and maintenance purposes.

SECTION 31-11. Easements and Bonds.

Easements or bonds may be required as conditions to the issuance of a permit.

SECTION 31-12. Management of Site Vegetation.

The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:

(1) No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within Storm Water systems.

ARTICLE III. STORM WATER MANAGEMENT PLAN - REVIEW

SECTION 31-13. Process.

Storm Water Management Plans meeting the requirements of Article II shall be submitted to the Office of the City Engineer for review and compliance with the standards of Article II. The Office of the City Engineer shall approve, approve with conditions, or deny the Storm Water Management Plan. Provided, however, if a particular Storm Water management plan involves a complex application or has the potential for significant controversy the City Engineer shall request a public hearing before the Planning and Zoning Commission for public input. The Planning and Zoning Commission shall make recommendation to the City Council. The City Council may elect to hold an additional public hearing prior to approving, approving with conditions or denying the proposes Storm Water Management Plan.

SECTION 31-14. Duration.

Approval of any plan submitted under the provisions of this article shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the Office of the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the Office of the City Engineer may grant one extension of not greater than one year. Receipt of any request for an extension shall be acknowledged by the City within fifteen (15) days. The Office of the City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmitted plan is subject to all applicable fees and shall be considered as a new application.

SECTION 31-15. Conditions.

A Storm Water Management Plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Jamestown or other public entity of certain lands or interests therein. The City may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each sub watershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan.

SECTION 31-16. Standards.

All Storm Water Management plan designs shall be designed using current and sound engineering practices. All plans submitted shall be reviewed for appropriate content described in this section. No construction may commence until the storm water management plan has been approved by the City.

SECTION 31-17. General.

(1) This section describes approval standards against which proposed Storm Water Management Plans will be measured. A Storm Water Management Plan which fails to meet the standards contained in this section shall not be approved by the City. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.

(2) It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies would include but are not limited to the Stutsman County Water Resource District, the State Water Commission, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency.

SECTION 31-18. Final Storm Water Management Plan.

Upon completion of all required construction activities, the permit applicant shall submit to the City the final Storm Water Management Plan to document any change to the original Storm Water Management concept. The final Storm Water Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. For areas five (5) acres or larger the final Storm Water Management Plan and Record Drawings shall be certified by a Professional engineer registered in the State of North Dakota.

ARTICLE IV. STORM WATER MANAGEMENT - PERMITS.

SECTION 31-19. Storm Water Management.

It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in Storm Water quantities, degradation of Storm Water quality, or restriction of flow in any storm sewer system, open ditch or natural channel, Storm Water easement, water body, or wetland outlet within the zoning jurisdiction of the City.

SECTION 31-20. Storm Water Management Permits.

(1) Mandatory Permits. Except as otherwise provided under Section 31-03, any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this title, shall obtain a Storm Water management permit before initiating those activities.

(2) Permit Application. All persons subject to meeting the requirements for a mandatory Storm Water permit shall complete and file with the City Engineer an application in the form prescribed by the City and accompanied by a fee established by the City and adopted by the City Council. The permit application shall be accompanied by a Storm Water Management Plan as prescribed under Article II and this Article. The Office of the City Engineer will evaluate the data furnished as part of the Storm Water Management Plan and may require additional information. After evaluation and acceptance of the Storm Water Management Plan, the City may issue a Storm Water management permit subject to any terms and conditions deemed necessary.

(3) Permit Conditions. Storm Water management permits are issued subject to all provisions of this title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:

(a) The user fee for a Storm Water outlet utilizing a regional Storm Water management facility.
(b) Limits on the maximum rate of Storm Water discharge;
(c) Limits on water quality degradation of Storm Water discharge;
(d) Requirements for the installation, operation and maintenance of Storm Water detention/retention facilities;
(e) Compliance schedule;
(f) Requirements for notification to and acceptance by the City of any land disturbing activities which have the potential for increasing the rate of Storm Water discharge resulting in degradation of Storm Water quality; and
(g) Other conditions as deemed appropriate by the City to insure compliance with this title.

(4) Permit Duration. Permits must be issued for a time period specified by the City. The applicant shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing

permit. The terms and conditions of a permit are subject to modification by the City during the term of the permit as set forth in paragraph five (5).

(5) Permit Modification. Permits may be modified by written agreement by the City and permittee for just cause upon 30 days' notice. The City of Jamestown, pursuant to its reserved police powers, may unilaterally, after it has provided reasonable notice and opportunity to be heard, amend a storm water management permit if it initially attempts in good faith to achieve such amendment pursuant to subsection (a) and is unable to do so, and provided that the amendment is designed and intended to protect the public interest and does not impose undue burdens upon the permittee. The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Just cause shall include but not be limit to:

(a) Promulgation of a new applicable state or nationwide permit standard;
(b) Changes in the requirements of this ordinance;
(c) Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
(d) Changes in the design or capability of receiving Storm Water facilities.

(6) Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel.

(7) Monitoring Facilities. The City may require the applicant to provide and operate at the applicant's expense, a monitoring facility to allow inspection, sampling, and flow measurements of each Storm Water facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

(8) Inspection. Any employee of the City of Jamestown may enter with or without notice to inspect the Storm Water management facilities of any permittee to determine compliance with the requirements of this title. The City shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording. The City shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders. Maintenance shall remain the responsibility of the subdivision and/or property owners.

(9) Phasing allowed. On a case by case basis, and in the interest of economy and practicality, the Office of the City Engineer may allow a storm water management plan to be submitted and approved in phases, with such interim storm water alteration activities being performed in the interim between phases as allowed or required in the plan itself. The Permittee is admonished that any such phasing shall not be deemed a waiver by the city of final plan requirements which may ultimately be deemed necessary by the city.

SECTION 31-21. Construction Activities.

Construction operations must at a minimum comply with the following requirements:

(1) Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that

causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.

(2) Waste and Material Disposal. All waste materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff or wind.

(3) Tracking Management. At the end of each work day any material placed on a public or private road shall be removed (not by flushing) to prevent sediment tracking.

(4) Water Quality Protection. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

(5) Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications.

ARTICLE V. ENFORCEMENT.

SECTION 31-22. Emergency Suspension of Permits.

(1) The City, by and through the Office of the City Engineer may for cause order the suspension of the Storm Water management permit and/or building permit of a person, contractor, developer or parcel owner when it appears to the City that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, substantial danger to the environment, or a violation of any permit conditions imposed by this article.

(2) Whenever the City orders the emergency suspension of a Storm Water management permit and/or building permit pursuant to the emergency provisions of this section, the City shall serve notice on the permittee personally or by registered or certified mail before or after actually suspending activity depending on the individual situation. If any person notified of the suspension order and/or a person fails to comply voluntarily with the suspension order, the City shall commence whatever steps as are necessary to obtain compliance, including judicial proceedings.

(3) Any applicant dissatisfied with an order the City issued pursuant to this section may request a hearing before the City Council by filing a written request for a hearing with the City, within fifteen (15) days of receipt of the order. The hearing must be held within thirty (30) days of receipt of the request, or as subject to the current meeting schedule, whereupon the City Council may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.

SECTION 31-23. Revocation of a Permit.

A Storm Water management permit may be revoked following notice and an opportunity for a hearing. The City Council may revoke a Storm Water management permit for cause if upon permitted site there is:

(1) One or more violation of any terms or conditions of the Storm Water management permit;
(2) False statements on any required reports;
(3) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
(4) Any other violation of this title or related ordinance.

SECTION 31-24. Notification.

Whenever the City finds that any person has violated or is violating this title, Storm Water discharge permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the City shall serve upon such person a written notice stating the nature of the violation. Within the time period specified, a plan for the satisfactory correction thereof must be submitted to the City.

SECTION 31-25. Hearing.

If the violation is not corrected by timely compliance, the City may order any permittee who causes or allows a violation to a Storm Water permit to show cause before the City Council why the order of the City should not be upheld. A notice of hearing must be served on the permittee specifying the time and place of a hearing to be held by the Council regarding the order of the City , and directing the permittee to show cause before the Council why the order of the City should not be upheld. The notice must be served personally or by registered or certified mail postmarked at least ten (10) days before the hearing. The evidence submitted at the hearing shall be considered by the city which shall then uphold, modify or rescind the order of the city.

SECTION 31-26. Other Legal Action.

(1) If any person commences any land disturbing activities which result in increased Storm Water quantity or Storm Water quality degradation into the City Storm Water management system contrary to the provisions of this title, federal or state requirements or any order of the City, the City Attorney may, commence legal action.

(2) An approved storm water management permit shall be considered a covenant running with the land, enforceable by injunctive action or otherwise by the City of Jamestown, or by persons directly affected by its performance or non-performance, or the public generally. The presence of this civil remedy shall not be construed as precluding a criminal remedy.

ARTICLE VI. PENALTIES.

SECTION 31-27. Penalty.

Any person, who is found to have violated an order of the City Council made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

SECTION 31-28. Costs of Damage.

Any person violating any of the provisions of this title or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's Storm Water management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this title the costs for any cleaning, repair or replacement work caused by the improper Storm Water discharge.

SECTION 31-29. City Attorney's Fees and Costs.

In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder.

SECTION 31-30. Falsifying Information.

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this title, or Storm Water management permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter, shall be guilty of an offense.

SECTION 31-31. Severability.

In the event any section of this chapter is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this chapter shall continue in full force and effect.

SECTION 31-32. Ordinance Conflicts.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 31-33. Effective Date.

This ordinance shall be in full force and effect from and after January 1, 2007.

ARTICLE VII. FEES.

SECTION 31-34. Fees and Charges.

Application fees, permit fees and user charges shall be established from time to time by resolution of the City Council of the City of Jamestown, ND.

ATTEST:

Jeff Fuchs

Jeff Fuchs, City Administrator

APPROVED:

Clarice Liechty

Clarice Liechty, Mayor

Introduced by Council Member Schulz
Seconded by Council Member Grabinger
First Reading: October 2, 2006
Second Reading: December 4, 2006
Final Passage: December 4, 2006

Roll Call No. 10 showed: 5 Ayes, 0 Nays, 0 Absent