



City of Fergus Falls Committee of the Whole Agenda

September 1, 2021
7:00 am
City Council Chambers

A. Call to Order

B. Roll Call

C. Discussion Items

1. Billing Policy for Water Disconnected for Delinquency

Bill Sonmor

Requested Action: Recommendation to the council to continue billing flat rates for utilities when a property is disconnected for delinquency

2. PI 9771, Fergus Falls Closed Landfill (SW-184)

Brian Yavarow

Requested Action: Recommendation to the council to accept Houston Engineering's professional services proposal in the amount of \$72,011 and to authorize staff to initiate ingress/egress negotiations with the property owner for PI 9771

3. PI 5344, Randolph Avenue: Friberg to Springen Avenue (MSAS Route No. 135) and Friberg: Lincoln to Summit Avenue (MSAS Route No. 123) Resurfacing Project

Brian Yavarow

Requested Action: Recommendation to the council to accept Interstate Engineering's professional services proposal amendment for PI 5344 design in the not to exceed amount of \$25,000 and to authorize an increase in the work scope by adding Cavour Ave. from Cascade St. to Friberg Ave. and Whitford Ave. from Cavour Ave. to Summit Ave

4. PI 5333, Union Avenue Street & Pedestrian Improvement Project from Washington Avenue to Junius Avenue (MSAS Route No. 104)

Brian Yavarow

Requested Action: Recommendation to the council to accept Bolton & Menk's professional services agreement for construction management of PI 5333 in the amount of \$98,000

5. Walking Floor Trailer Purchase

Len Taylor

Requested Action: Recommendation to the council to purchase a WILKENS
“walking floor” trailer

6. Ordinance 13, Eighth Series

Len Taylor

Requested Action: Recommendation to the council to introduce Ordinance 13,
Eighth Series for a first reading on September 7, 2021

D. Additional Agenda Items

E. Announcements

September 6 Most city offices and facilities closed for Labor Day holiday

September 7 City Council meeting 5:30 pm

September 15 Committee of the Whole meeting 7:00 am

Adjourn



Council Action Recommendation

Page 1 of 1

Meeting Date: September 1, 2021

Subject: Billing Policy for Water Disconnected for Delinquency

Recommendation: Continue to bill flat rates for utilities when a property is disconnected for delinquency.

Background/Key Points:

- The City of Fergus Falls charges both flow and flat rates for utilities on a monthly basis. Flow rates are intended to cover the cost of usage, while flat rates are intended to cover the cost of supporting infrastructure.
- When water is disconnected by request, the property owner continues to receive the benefits of our infrastructure while they are disconnected and therefore continues to pay flat charges to help offset the cost to the city of providing those benefits.
- However, when water is disconnected for delinquency, the tenant or property owner is not billed for flats until the water is reconnected, which is inconsistent with how we treat disconnects made by request.
- The flat charges for a typical resident would be \$34.30 and would include water flat, sewer flat, storm water and tree management. These charges should continue to be billed on properties disconnected for delinquency.
- The primary reason for this change is to maintain consistency and to more equitably bill the cost of infrastructure to those who benefit from the services.

Budgetary Impact: The city would see a slight increase in annual revenue due to this change.

Originating Department: Finance

Respectfully Submitted: Bill Sonmor, Finance Director

Attachments: None



Council Action Recommendation

Page 1 of 2

Meeting Date:

September 1, 2021 – Committee of the Whole

September 7, 2021 – City Council

Subject:

P. I. No. 9771 - Fergus Falls Closed Landfill (SW-184) Update

Recommendation:

- Accept Houston Engineering's professional services proposal in the amount of \$72,011.00
- Authorize staff to initiate ingress/egress negotiations with the property owner

Background/Key Points:

On June 16, 2021 Houston Engineering, Inc. (HEI) presented a power point to this Council in regards to the above referenced project. Since then, the MPCA has reviewed the sampling information and requested further action. A work plan was provided to MPCA which they have approved.

In general, the MPCA is requesting two (2) additional nested monitoring wells be installed. The proposed well locations (FF 22 & 23) are located due west and northwest of the closed landfill site on private property. The intent of these new wells is to provide additional sampling points from the upper and lower aquifers to confirm contamination has not expanded beyond current extents. Please refer to the attached map for additional information. HEI estimated fee includes the physical well installations by Traut Wells (subcontractor) and analytical testing by Test America.

Staff met with the private property owner to review the new well locations. The owner has approved the well installations. Upon review of access needs to these new wells for future annual water sampling, therefore I am also recommending the City secure permanent ingress/egress and authorize staff to initiate this process with the property owner.

Budgetary Impact:

HEI's fees (Traut Wells, Test America) and City staff time will be reimbursed thru the City's Post Closure Assurance Fund. The MPCA has approved this funding.

Originating Department:

Engineering Department

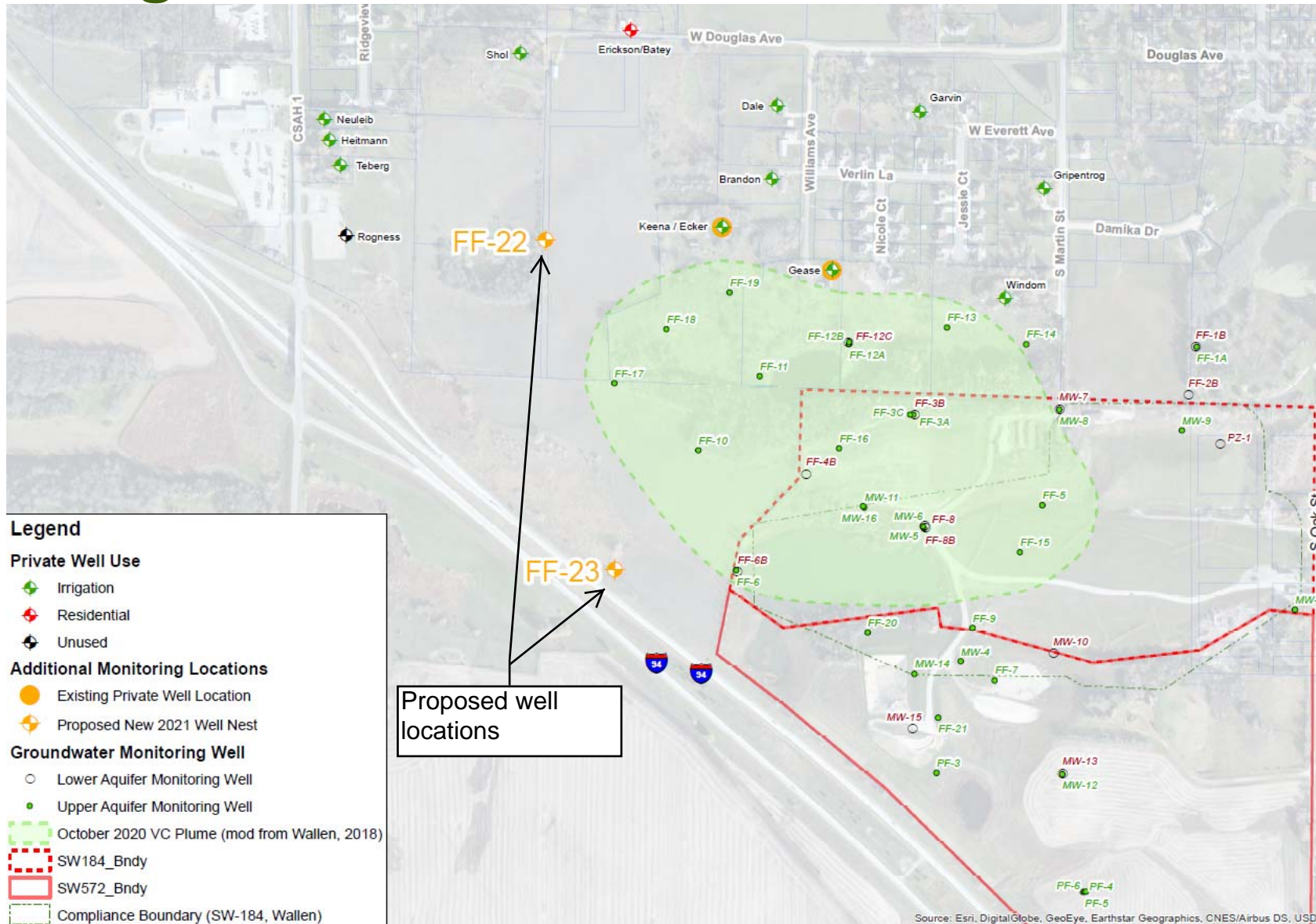
Respectfully Submitted:

Brian Yavarow, P.E. - City Engineer

Attachments:

Exhibit - FF 22 & 23 Proposed Locations

Fergus Falls – SW-184 Corrective Action





Council Action Recommendation

Page 1 of 1

Meeting Date:

September 1, 2021 – Committee of the Whole
September 7, 2021 – City Council

Subject:

PI 5344 – Randolph Avenue from Friberg Avenue to Springen Avenue (MSAS Route No. 135) & Friberg Avenue from Lincoln Avenue to Summit Avenue (MSAS Route No. 123) Resurfacing Project

Recommendation:

- Accept Interstate Engineering's professional services proposal amendment for design in the not to exceed amount of \$25,000
- Authorization to increase the work scope by adding Cavour Ave. from Cascade St. to Friberg Ave. and Whitford Ave. from Cavour Ave. to Summit Ave.

Background/Key Points:

Recently, City and Interstate Engineering staff conducted a field visit for the above referenced project. We discussed and noted a few additional items that were not considered in the initial project scope such as:

- Soil borings along Randolph to verify existing pavement especially near the Friberg Ave. whereas the pavement is heavily distressed
- The existing Randolph pedestrian crossing locations and the ADA requirements to achieve compliance. The PED crossing located approximately 150' east of Friberg Ave. will be the most difficult because the existing grades are extremely steep and challenging from an ADA perspective.
- Potential of adding sidewalk along a portion of Randolph south side to serve primarily students and the pending aquatic facility
- Adding additional street segments such as Cavour Ave. from Cascade St. to Friberg Ave. and Whitford Ave. from Cavour Ave. to Summit Ave. Both Cascade St. and Summit Ave. were resurfaced in 2016. Maintenance connectivity would be achieved by adding these MSA street segments.
- Bike lane analysis

If acceptable, further detailed analysis will occur to develop feasible options. These options will be discussed with the school district representatives. I am proposing this work be bid this fall with construction beginning in the spring after the school year.

Budgetary Impact:

This cost is proposed to be funded thru the City's Municipal State Aid Street construction fund allocations.

Originating Department:

Engineering Department

Respectfully Submitted:

Brian Yavarow, P.E. – City Engineer

Attachments:

Project Location Map



Additional
Proposed Street
Locations

Proposed Street
Locations





Council Action Recommendation

Page 1 of 1

Meeting Date:

September 1, 2021 – Committee of the Whole
September 7, 2021 – City Council

Subject:

PI 5333 –Union Avenue Street & Pedestrian Improvement Project from Junius Avenue to
Lincoln Avenue (MSAS Route No. 104)

Recommendation:

- 1) Accept Bolton & Menk’s professional services agreement for construction administration in the amount of \$98,000.00

Background/Key Points:

Bolton & Menk, Inc. is estimating services agreement for construction administration in the amount of \$98,000.00. This amount includes construction testing services by Braun Intertec required by State Aid construction rules.

Central Specialties, Inc. (Alexandria, MN) is proposing to start this project shortly after Labor Day, 2021. As a reminder, this project requires significant traffic control devices and lane shifts to maintain traffic flow. Public notices will be issued and information will be available on the City’s website.

Budgetary Impact:

This project is proposed be funded primarily with State Aid funds. Some utility work, such as relocations, is required to facilitate the construction. This estimated cost of utility work items is \$28,000

Originating Department:

Engineering Department

Respectfully Submitted:

Brian Yavarow, P.E. – City Engineer

Attachments:

Project Layout



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Council Action Recommendation

Page 1 of 1

Meeting Date: Sept 1, 2021

Subject: Equipment fund purchase of a trailer

Recommendation:

- Purchase a WILKENS Industries Model 50125AOT 125 Cu. Yd. “walking floor” trailer

Background/Key Points:

- Current method used to haul soft goods to Gwinner is 1, 30 Cu. Yd. Roll-off container hauled in tandem with 1, 30 Cu. Yd. roll-off container pulled on a “pup trailer” hauled by a Roll-off truck.
- This trailer would reduce frequency and the number of loads needed to be hauled, translating into a significant fuel savings and would put more labor hours back in town instead of having an employee on the road back and forth to Gwinner, 6 hours per trip.
- In 2020 we took 92 trips to Gwinner, based on that number, if we haul a little more than twice the amount with the new trailer, we’ll take half the number of trips (fuel savings) and realize an estimated 250 +/- man hours back in town.
- We will better utilize fleet equipment that currently is used only to haul waste water sludge 4 weeks per year and snow from downtown in the winter.

Budgetary Impact:

The base purchase price of \$76,097 plus other charges, (Federal Excise Tax-\$9,131.64, MN Sales tax-\$4946.31, tire credit(-)\$201.84) will be \$89,973.11. This will be paid for from the 2021 Equipment fund which due to expected, but never realized LGA cuts, was set lower than we normally would have (no increase from 2020), consequently, the budget will be overspent, however the Equipment fund balance is over 2 million. The purchase will be from existing inventory at WILKENS, if we wait for the 2022 budget cycle, we will have a 9 month delivery time frame and then would not realize the fuel and labor saving for most of the year.

Originating Department: Public Works-Fleet/Refuse Div.

Respectfully Submitted: Len Taylor

Attachments: WILKENS Industries quote



Manufacturers of **LOAD RUNNER**
XSERIES Solid Waste Transport Trailers

INDUSTRIES, INC.

R.R. 3, Box 169 Morris, MN 56267 (320) 589-1971
 1-800-833-6045
 FAX: (320) 589-1974

Firm	City of Fergus Falls	Date	07/22/21
Address	1127 E. Washington Ave.	PO #	
City, State, Zip	Fergus Falls, MN 56537	Fax #	
Contact	Dan Gaines	Phone #	218-332-5882
Completion Date:	Stock on Sight	Terms	PURCHASE ORDER/NET 10

Qty.	Description	Price Each
1	<p>Model: 50125AOT Total Cubic Yard (125) O.A.D: L: 50' H: 13'4" W: 102" (92"/96" Interior Width) Taper: 4" Wedge: none Sides: .125 Alum. sheets, HD posts huck bolted to sheets on 14.53" centers, 3" X 6" X 3/16" Vert. Tube. 3/8" huck bolts top & bottom rail on posts. Bulkhead: 2-horz. Braces inside, Front Corners 10" Diagonal, at 45 degree. Top rail: Wilkens Heavy Duty 4" x 6". (1) Spreader Bar 3" x 3" x 1/4" center Kingpin: 36", 1/4" 100,000# MYPick-up plate, 1/4" 100,000# MY channels, Full Width style. 43'6" King pin to center of last axle. Cross-members: Steel, tapered, 14.53" centers, with both sides top and bottom of vertical web. Sub-frame: 1/4" x 4" x 8" steel tube, extended to allow possible third axle, prep for lift axle. Bottom Rail: 7Ga., w/1.81 Landing gear: Fleetcraft, D/Side crank, 7ga. Supports. Bumper: 7GA pan, Rear under ride bumper. Suspension: Hutch 9700 Hutch, weld on straddle mount hangers, HD HA365-00 Springs, TRA-2740 Spring seats: Frt. 4 3/4" Rr 4 3/4" Axles: Set ahead, (2) 25,000#, 77.5", T/M chambers, 4S/2M ABS. Hubs: Uni-Mount, O/B Drums: Cast Wheels: (8) 8.25x22.5 steel disc, white Tires: (8) 14 Ply, 11Rx22.5, Yokohama Y109L Door: Alum. single swing, curbside hinges, .125 sheets, manual locks, 2-horz. inside braces. Lights in door. Drive: KRF II 3 X 10, 24 slat. Flooring: 24-Slats, Model# 2299, T-Blocks, reinforce side sealer by drive unit. Drive unit set ahead to allow for possible third axle. Sub-deck: Alum. Front baffle, .190" Alum. Cover: Black tarp, long rear crank handle, open to curbside, cast alum. easy off tarp stops, belt pick stick, 7 ratchets & straps. Make steel end caps have painted with the frame. Final assembly: Std. Air & Elec. Hyd. Couplers: Tema Couplers, Locate Hyd. couplers center of bulkhead 3' above K.P. plate, Dust caps, manifest box, Federal D.O.T. Mud flaps at rear. Options: Front window, Tow hooks. Aluminum ladder front drivers side 1" up from bottom rail to top rail. Paint: All steel primed and painted black</p>	\$ 76,097.00
TOTAL PRICE		\$76,097.00

F.E.T. Federal Excise Tax	12%	+\$	9,131.64
Freight	(Pick Up) FOB. Morris, MN	+\$	0
MN Sales Tax	6.5%	+\$	4,946.31
Tire Credit	F.E.T. Credit (8) Tires X \$25.32	-\$	(201.84)
Total:		\$	89,973.11
Balance Due at delivery:		\$	89,973.11

The purchaser agrees to accept the equipment listed and described above, on arrival, and to pay therefore the total Cash Price (less any pre-payments theretofore made) or, balance to be payable as follows:

The purchaser further agrees:

- That a service charge of 1-1/2% per month will be charged on all past due accounts with a \$1.00 minimum. This is an annual percentage rate of 18%.
- *Special orders are non-cancelable and a minimum of 35% down payment is required on special designed trailer orders. That this document forms a legal and binding contract for both parties herein, undersigned. Any changes, additions, or deletions, must be in writing within 5 days form date accepted by Wilkens Industries, Inc.
- Any regular orders requested to be cancelled will be subject to 20% of the sale price, service charge, and or the purchaser will forfeit their down payment whichever is greater. Any request to cancel an order shall be made in writing with a detailed explanation. Wilkens Industries, Inc shall have the final approval of a request for cancellation.
- Owner's manuals are available in electronic form. Bound copies are available at an additional cost.

Signed By:	Ryan Snyder	Accepted By:	
Title:	Sales	Title:	
Date:	7/22/21	Date:	

BLUE=MODEL ORDINANCE LANGUAGE MISSING

RED=ORDINANCE 97 LANGUAGE MISSING

ORDINANCE NO. 13, EIGHTH SERIES

AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA,
AMENDING CITY CODE SECTION 90.20 THROUGH 90.26 PUBLIC
NUISANCES.

THE CITY OF FERGUS FALLS DOES ORDAIN:

Section 1. City Code Section 90.20 through 90.26 is hereby repealed and replaced in its entirety so as to read as follows:

§ 90.20 PUBLIC NUISANCE PROHIBITION.

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, **which is a misdemeanor**:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or

(B) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(C) Does any other act or omission declared by law **or any other part of this code to be a public nuisance and for which no sentence is specifically provided** **or this ordinance to be a public nuisance.**

§ 90.21 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) The exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

(E) Accumulation of manure, refuse, or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.

§ 90.22 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating **or 3.2 malt liquor** is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating **or 3.2 malt liquor**, or where intoxicating **or 3.2 malt liquor** is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. **For the purposes of this section INTOXICATING LIQUOR shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous, or malt beverage containing more than ~~1/2~~2.05% alcohol by volume;** and

(E) Any vehicle used for the unlawful transportation of intoxicating **or 3.2 malt liquor**, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

§ 90.23 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice that is not removed from public sidewalks within twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall.

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection.

(C) All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.

(D) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise. "Plainly audible" is defined as sound that can be detected by a person using their unaided hearing faculties.

(E) All unnecessary and annoying vibrations.

(F) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law.

(G) Radio aerials or television antennae erected or maintained in a dangerous manner.

(H) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk.

(I) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance.

(J) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

(K) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way.

(L) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

(M) Wastewater cast upon or permitted to flow upon streets or other public properties.

(N) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation.

(O) Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located.

(P) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.

(Q) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance.

(R) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.

(S) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel.

(T) All other conditions or things that are likely to cause injury to the person or property of another.

§ 90.24 NOISE VIOLATIONS.

(A) Prohibited noises.

The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise. (this general prohibition is not limited by any specific restrictions provided in this ordinance). "Plainly audible" is defined as sound that can be detected by a person using their unaided hearing faculties.

(2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference.

(3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(4) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that

effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle.

(6) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, ~~phonograph~~, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby. **Operation of any device referred to above between the hours of 8:00 p.m. and 8:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence or violation of this section;**

(7) Creating excessive noise on a street, alley, or public grounds adjacent to any school, institutions of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(B) Hourly restriction of certain operations.

(1) **Domestic power equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. **Snow removal equipment is exempt from this provision.**

(2) **Refuse hauling.** No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) **Construction activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(4) **Noise impact statements.** The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

(C) City Services Exempt. The City performing improvements or maintenance to any city utility, street or other city services are exempt from the provisions of § 90.24.

§ 90.25 NUISANCE PARKING AND STORAGE.

(A) **Declaration of nuisance.** The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and (6) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful parking and storage.

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property unless more than one hundred (100) feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property. The term vehicles includes, but is not limited to, automobiles, trucks, campers, and trailers, whether motorized or not.

(b) Vehicles that are parked or stored outside in the front yard areas must be on a paved or graveled parking surface or driveway area.

(c) Vehicle that are parked in any set-back area as determined by the zoning district.

(d) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

§ 90.26 INOPERABLE MOTOR VEHICLES.

(A) **Declaration of nuisance.** Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) **Inoperable motor vehicles.** It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to [Minn. Stat. § 168B.011, subd. 3](#) [M.S. §168.13](#), as it may be amended from time to time.

(C) **Screening.** This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. Privacy fencing is permissible.

§ 90.27 BUILDING MAINTENANCE AND APPEARANCE.

(A) **Declaration of nuisance.** Building, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhoods patterns.

(B) **Standards.** A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose, or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface; or

(b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

§ 90.28. DUTIES OF CITY OFFICERS.

City ~~officials~~ person designated may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city ~~official~~ person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city ~~official~~ person will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

§ 90.29 ABATEMENT ~~PROCEDURE.~~

(A) ———(Notice; written notice of violation. In all cases of nuisances described in this chapter, the City Administrator, or his or her designee, shall cause a written notice to be served upon the person or entity that maintains, operates or permits a nuisance. The notice shall be substantially as follows:

NOTICE TO ABATE NUISANCE

The City of Fergus Falls to _____.

You are hereby notified that the nuisance maintained, operated or permitted to exist by you located at _____, and consisting of _____ must be abated by the (removal) (destruction) (discontinuance) of the same and that if you do not comply with this notice, you are directed to appear before the undersigned at the Department of _____ on _____, 20____, at _____ o'clock a.m./p.m. to show cause why the same should not be abated. If you fail to appear, the undersigned will take the necessary steps to abate such nuisance. The costs of abatement incurred by the city shall be assessed against you, and a lien may be imposed on the property to secure the payment.

Date this _____ day of _____, 20_____.

(Title of Signer)

A copy of the foregoing notice was served on _____ on the day of _____, 20____
_____, by (describe manner of service) _____.

(Name of Server)

(1) Notice of violation. Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by mail to the last known address of the owner or occupant. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) Notice of hearing. At the same time and place specified in the notice, the City Administrator, or his or her designee, shall hear the matter. The person or entity so complained of shall have the right to appear in person or by counsel. At the conclusion of the hearing, the City Administrator, or his or her designee, may vacate the notice or may declare the condition to be a nuisance and order it abated summarily.

(3) Notice of city order. Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time. In all cases where the City Administrator, or designee, shall have determined, after hearing or notice of hearing and default, that any nuisance shall be abated, he or she shall issue an order requiring the abatement of the nuisance within a time named in the order, and shall serve the order of abatement upon the person or entity who maintains, operates or permits the nuisance. In the event the nuisance is not abated by the party within the time provided in the order, the City Administrator, or his or her designee, shall cause the nuisance to be abated.

(4) Notice of motion for summary enforcement. Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(5) Grievance. Any person aggrieved by an order of abatement may appeal the order to the City Council. An appeal shall be taken within ten days from the date of the order of abatement by filing with the City Administrator and the City Administrator a notice of appeal which shall specify the grounds of appeal. The matter shall be placed on the City Council's next regularly-scheduled meeting for a public hearing. An appeal stays all proceedings in furtherance of the action appealed from. The City Council may reverse or affirm, in whole or in part, or may modify the order of abatement and may issue an order, requirement, decision or determination as is consistent with city ordinances.

(6) Failure to abate by owner. Any person or entity who fails to remove and abate any nuisance after proper notice, the opportunity to be heard and final order shall be liable to the city for all expenses incurred in the removal and abatement of the nuisance. The city shall have the right to recover all such costs and a lien may be imposed upon the property to secure

payment of the costs. The procedure for establishing the lien shall be in accordance with M.S. § 429.101, as it may be amended from time to time.

(B) Procedure.

(1) Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the City Administrator or designee. Thereafter, the City Administrator or designee may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that, if the nuisance is not abated within the time prescribed by the City Administrator or designee, the city may seek injunctive relief by serving a copy of the City Administrator order and notice of motion for summary enforcement.

(2) Whoever has been given one notice to abate a nuisance and, subsequently, within a 12- month period from the date of the first notice commits a second violation of this subchapter at the same location, the City Engineer, Street Superintendent, Police Department or other designated person may elect to commence an administrative violation procedure or criminal violation procedure immediately and without providing the violator an opportunity to correct the violation. However, the City Engineer, Street Superintendent, Police Department or other designated person may not abate the violation without complying with the provisions consistent with this division (B).

(C) Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in division (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

~~A) **Procedure.** Whenever the peace officer or other designated person official determines that a public nuisance is being maintained or exists on the premises in the city, the official officer or person designated shall notify in writing the owner of record and occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner and occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.~~

~~—————(B) **Notice.** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official person on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.~~

~~(1) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.~~

~~—————(a) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.~~

~~—————(b) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.~~

~~—————(c) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be~~

~~made as provided in M.S. § 463.17 (Hazardous and Substantial Building Act), as it may be amended from time to time.~~

~~_____ (d) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.~~

~~_____ (C) **Emergency procedure; summary enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and the city's intention to seek summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.~~

~~_____ (D) **Immediate abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.~~

(E) **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section 90.23, Subdivision D, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to ~~disburse~~ disperse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

~~_____ (7) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.~~

(F) **Judicial remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

§ 90.30 RECOVERY OF COST.

(A) **Personal liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator or other city ~~official-person designated~~ shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator.

(B) **Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

§ 90.31 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. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Section 3. Effective date. The effective date of this ordinance shall be the ____ day of _____, 2021.

The following summary is approved by the City council and shall be published in lieu of publishing the entire ordinance pursuant to Minnesota Statutes Section 412.191:

PUBLIC NOTICE

WHEREAS, Certain sections of the Fergus Falls City Code have been amended by Ordinance No. 13, Eighth Series, which ordinance has been duly adopted by the City Council; and,

WHEREAS, Said ordinance is lengthy and the Council has therefore determined that, pursuant to City Charter Chapter 4.04, Subd. 2, publication of the title and summary of said ordinance would clearly inform the public of the intent and effect of the ordinance; and,

WHEREAS, The Council, by at least four-fifths of its members, has directed that only the title of the ordinance and a summary be published and that printed copies of the ordinance be available for inspection by any person during regular office hours at the office of the City Administrator and also at the public library where the entire text of said ordinance is posted.

NOTICE IS HEREBY GIVEN, that the title of Ordinance No. 13, Eighth Series, is as follows:

AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA,
AMENDING CITY CODE SECTION 90.20 THROUGH 90.26 PUBLIC
NUISANCES.

NOTICE IS FURTHER GIVEN, that a summary of Ordinance No. 13, Eighth Series, is as follows:

Section 1 repeals § 90.20 through 90.26 Public Nuisances in its entirety replaced and adopts the following sections:

§ 90.20 PUBLIC NUISANCE PROHIBITION.

§ 90.21 PUBLIC NUISANCES AFFECTING HEALTH.

§ 90.22 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

§ 90.23 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

§ 90.24 NOISE VIOLATIONS.

§ 90.25 NUISANCE PARKING AND STORAGE.

§ 90.26 INOPERABLE MOTOR VEHICLES.

§ 90.27 BUILDING MAINTENANCE AND APPEARANCE.

§ 90.28. DUTIES OF CITY OFFICERS.

§ 90.29 ABATEMENT PROCEDURE.

§ 90.30 RECOVERY OF COST.

§ 90.31 PENALTY.

Section 2. Addressed Severability.

Section 3. Establishes the Effective date.

NOTICE IS FURTHER GIVEN, that the Council has approved the text of the foregoing summary and determines that it clearly informs the public of the intent and effect of the ordinance.

THIS ORDINANCE was introduced on the ____ day of _____, 2021, and adopted by the City Council of the City of Fergus Falls, Minnesota, on the__ day of _____, 2021, by the following vote:

AYES:

NAYS:

ABSENT:

ATTEST:

APPROVED:

City Administrator

Mayor

Barb/clients/city/ordins/eighth series/ord13