

**ORDINANCE NO. 31, EIGHTH SERIES**

**AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA, AMENDING CHAPTER 152.26 DEFINITIONS OF STORM WATER MANAGEMENT, CHAPTER 152.33, PLAN; APPROVAL STANDARDS; CHAPTER 152.36, CRITERIA FOR NEW AND REDEVELOPED PERMANENT FACILITIES; CHAPTER 152.37, OPERATION, MAINTENANCE AND INSPECTION; AND CHAPTER 152.43, CONSTRUCTION PLANS AND SPECIFICATIONS OF THE CITY CODE.**

THE CITY OF FERGUS FALLS DOES ORDAIN:

Section 1. City Code Chapter 152.26, Definitions, Municipal Separate Storm Sewer System (MS4), is hereby added as follows:

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).**

The system of conveyances and structural stormwater BMPs (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by the City, designed or used for collecting or conveying stormwater, and not used for collection or conveying wastewater that discharges to waters of the United States.

Section 2. City Code Chapter 152.33, Plan; Approval Standards, is hereby amended to read as follows:

The City Engineer shall not approve a storm water management plan, which fails to meet the standards set forth within this subchapter. Other standards of the most currently approved NPDES/SDS and NPDES MS4 permit must be met by proposed stormwater plans. If the standards of different agencies conflict, the more restrictive standards shall apply. It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. The City may choose to obtain some of the required permits. The applicant will be notified which permits are to be obtained by the City.

Section 3. City Code Chapter 152.36, Criteria for New and Redeveloped Permanent Facilities, is hereby amended to read as follows:

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:

(A) *Pre-versus post-hydrological response of site.* An applicant shall design, install or construct, on or for the proposed land-disturbing activity, development activity or redevelopment activity, all storm water management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the storm water management system, into which the site discharges or that would cause the storm water management system to be overloaded or accelerate channel erosion as a result of the proposed land-disturbing activity or development activity. Under no circumstances shall the two-, ten- or 100-year developed peak flow exceed the two-, ten- or 100-year existing peak flow without prior written approval by the City Engineer. Post construction storm water management BMPs shall be installed to the maximum extent practical (MEP) and shall show a net per annual basis reduction for volume, total suspended solids (TSS) and total phosphorus (TP) for new or redeveloped sites from pre-project conditions. For regional detention or storm water management system, the City Engineer shall recommend a proposed system charge or assessment to be approved by the City Council based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or storm water management system. Design criteria must meet the most current state approved NPDES/SDS and NPDES/MS4 general permit requirements.

(B) *Natural features of the site.* The applicant shall give consideration to reducing the need for storm water management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.

(C) *Storm water management strategies.*

(1) The following storm water management practices shall be investigated when developing a storm water management plan in accordance with this subchapter and the city code:

(a) Natural infiltration of precipitation and runoff on-site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a storm water management plan that encourages natural infiltration. This includes, providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;

(b) Flow attenuation by use of open vegetated swales and natural depressions;

(c) Storm water detention facilities;

(d) Storm water retention facilities (on a case by case basis);

and

(e) Other facilities requested by the City Engineer.

(2) A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected, except as provided in storm water management “limitations” noted in the state’s NPDES general permit.

(3) For non-linear projects, where the water quality volume cannot cost effectively be treated on the site of the original construction activity, the applicant is required to identify locations where off-site treatment projects can be completed. If the entire water quality volume is not addressed on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment.

(a) Off-site treatment project areas shall be selected in the following order of preference: locations that yield benefits to the same receiving water that receives runoff from the original construction activity; locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity; locations in the next adjacent DNR catchment area up-stream; or locations anywhere within the Regulated Party's jurisdiction.

(b) Off-site treatment projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs already required by the General Permit cannot be used to meet this requirement.

(D) *Adequacy of outlets.* The adequacy of any outlet used as a discharge point for proposed storm water management system must be assessed and documented to the satisfaction of the City Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes. In addition, projected velocities in downstream natural or human-made channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to 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.

Section 4. City Code Chapter 152.37, Operation, Maintenance and Inspection, is hereby amended to read as follows:

All storm water management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically, eight feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All storm water management systems shall have a plan of operation and

maintenance that assures continued effective removal of pollutants carried in storm water runoff. The City Engineer may inspect all public and private storm water management systems at any time. Inspection records will be kept on file at the City Engineer's office. 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 system for inspection and maintenance purposes. The owner must perform routine maintenance and inspections that are required annually and includes mowing grass, controlling weeds and woody vegetation, repairing eroded areas and removing debris. Owner shall maintain records and provide annual maintenance and inspection reports. The reports shall be made available to the City upon request.

The owner must perform non-routine maintenance which includes sediment cleanout and major structural repairs when needed. Inspections for non-routine maintenance items must occur at a minimum of every five years. Sediment cleanout must occur when 50% of the permanent pool storage volume is sediment. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions, penalties, non-compliance orders and fees.

Section 5. City Code Chapter 152.43, Construction Plans and Specifications, is hereby amended to read as follows:

- (A) The plans and specifications prepared for the construction of the storm water management system must be:
- (1) Consistent with the storm water management plan approved by the City Engineer, including any special provisions or conditions;
  - (2) In conformance with the requirements of the city and any other necessary permits required and issued by other governmental agencies;
  - (3) Sealed and signed by a professional engineer registered in the state;
  - (4) Submitted to the City Engineer for approval;
  - (5) Approved by the City Engineer prior to commencing construction; and
  - (6) Site plan reviews shall be documented by the City to achieve compliance with MS4 permitting requirements.

(B) The construction grading and erosion/sediment control plans, in a format acceptable to the City Engineer, shall contain a drawing or drawings delineating the features incorporated into the storm water pollution prevention plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMPs. In addition, the construction specifications shall contain technical

provisions describing erosion, sedimentation and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMPs. The project SWPPP must be incorporated into the construction specification documents.

Section 6. Effective date. The effective date of this ordinance shall be the 11<sup>th</sup> day of December, 2022.

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 Chapter 152 have been amended by Ordinance No. 31, 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 Section 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. 31, Eighth Series, is as follows:

**AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA, AMENDING CHAPTER 152.26 DEFINITIONS OF STORM WATER MANAGEMENT, CHAPTER 152.33, PLAN; APPROVAL STANDARDS; CHAPTER 152.36, CRITERIA FOR NEW AND REDEVELOPED PERMANENT FACILITIES; CHAPTER 152.37, OPERATION, MAINTENANCE AND INSPECTION; AND CHAPTER 152.43, CONSTRUCTION PLANS AND SPECIFICATIONS OF THE CITY CODE.**

NOTICE IS FURTHER GIVEN, that a summary of Ordinance No. 31, Eighth Series, is as follows:

- Section 1 amends Chapter 152.26, Definitions
- Section 2 amends Chapter 152.33, Plan; Approval Standards
- Section 3 amends Chapter 152.36, Criteria for New and Redeveloped Permanent Facilities
- Section 4 amends Chapter 152.37, Operation, Maintenance and Inspection
- Section 5 amends Chapter 152.43, Construction Plans and Specifications
- Section 6 provides for 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 7<sup>th</sup> day of November, 2022, and adopted by the City Council of the City of Fergus Falls, Minnesota, on the 21<sup>st</sup> day of November, 2022, by the following vote:

AYES: Hagberg, Kvamme, Arneson, Thompson, Gustafson, Hicks, Fish

NAYS: None

ABSENT: Rufer

ATTEST:

APPROVED:

*Andrew Bremseth*

*Ben Schierer*

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City Administrator

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Mayor

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