

CHAPTER XIV
WATER AND SEWERS

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CHAPTER XIV
WATER AND SEWERS

Article 1
Utility Established

14.0101 Water and Sewer Utility Created

The waterworks and sewerage facilities now owned by this City or hereafter acquired, were and are hereby declared to be and to constitute a public utility of the City, to be held, operated, maintained, improved, extended and administered as a single undertaking to be known as the "water and sewer utility." The properties of said utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, water rights, contract rights, franchises, dams, reservoirs, sewage disposal plants, intercepting sewer, trunk connections, sewer and water mains, filtration works, pumping stations, and all parts and appurtenances of the foregoing which are used or useful in connection with the obtaining of a water supply and the conservation treatment and disposal of water for public and private uses and/or useful in connection with the collection, treatment and disposal of sewage, waste and storm waters.

05/05/80

14.0102 Scope of Utility

The properties of said utility and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the City's Water and Sewer Utility Fund and all monies to be derived thereafter from the services, facilities, products and byproducts of said utility, shall be and are hereby appropriated and dedicated for the purpose of insuring the public health, safety and welfare by furnishing and making available water and sewerage service to the City and its inhabitants and industries. Said utility shall at all times be under the management and control of the governing body of the City and shall by it be operated and maintained in such manner as to provide its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

05/05/80

14.0103 Service Charge - Use Of

Said utility shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and byproducts shall be such as to make the utility self-supporting and self-perpetuating. Such charges from time to time imposed and collected shall be made and kept adequate to pay as incurred all costs of operation and maintenance of said utility and to establish and maintain reasonable operating reserve to produce net revenues shall be sufficient at all times to pay promptly the principal and interest due on all obligations of the City incurred for the improvement, extension and enlargement of said utility, to the extent that such obligations are according to the terms payable from said net revenues, and to establish and maintain adequate reserves for the security of said obligations; and to produce surplus net revenues, over and above current principal, interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's capital investment

therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other city functions, subject to the limitations now or hereafter prescribed by law.

The foregoing appropriations shall not, however, be deemed or construed to preclude the City from defraying any part or all of the expense of any improvement, enlargement or extension of the water and sewer utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

05/05/80

14.0104 Policy On Improvements - Extensions

It is hereby declared to be the policy of the City, subject to such modifications as shall be deemed by the governing body to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance amendatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the following manner:

1. Where water mains not exceeding six inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential proper where water mains not exceeding eight inches or sewer mains not exceeding ten inches in diameter are installed adjacent to commercial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains, and other mains are referred to as "trunk" mains.
2. Where a trunk main is installed, the governing body upon advice of the City Engineer shall estimate the probable cost of construction of a lateral main at the same time and place, and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.
3. Twenty percent of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefitted thereby, in amounts proportionate to and not exceeding

the benefits determined to be derived therefrom by the respective properties.

5. Where a portion of the benefits of any of the foregoing improvements is deemed to accrue primarily to the city at large, a portion not exceeding twenty (20) percent of the cost thereof as determined by the governing body with the concurrence of the Board of Budget Review, may be paid by the levy of ad valorem taxes upon all property within the City over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget, or from the proceeds of general obligation bonds duly authorized by the electors.
6. Such portion of the cost of any improvement, extension or addition to the utilities is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.
7. Where due to any error or omission or to any special circumstances a special assessment is not levied against any property benefitted by an improvement at the time of the construction thereof in accordance with the program described in this section, the City reserves the right to levy a supplemental special assessment upon property or to impose and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just share of the assessable cost of such improvement.

05/05/80

14.0105 Utility Fund - Separate Accounts

All monies received by the City in respect of the services, facilities, products and byproducts furnished and made available by said utility, except collections of special assessments and taxes appropriated to improvement district funds and monies borrowed for capital improvements, and all money, receipts and returns received from any investments of such earnings, shall be paid into the treasury of the city and kept in a special fund which shall be permanently maintained on the books of the City, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund, in the records of which fund all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the monies from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other City funds. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below, and such revenues shall be administered and accounted for as follows:

1. **Operation and Maintenance Account.** There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of

operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month and to maintain a reasonable reserve for contingencies. Monies in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.

2. Principal and Interest Account. The Principal and Interest Account of the Fund, created by resolution adopted _____, 19____, shall continue to be maintained as provided in that resolution until the payment in full the improvement warrants issued against said fund.
3. Revenue Bond Account. The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the Revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding twelve month period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After said reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding twelve months. Monies in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and said reserve shall be used for such purpose only when other monies in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility as hereinbefore defined without preference or priority of one bond over any other; provided that if at any time the monies in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of monies from the other accounts described below, the monies available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess monies available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that monies available for payment of bonds maturing on the same date shall be prorated equally among such bonds.
4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of

N.D.C.C. § 40-22-15 and N.D.C.C. § 44-22-16. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessment collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Monies sufficient for the requirements of said improvement district funds shall be credited and paid into the Improvement Warrant Account out of the net revenues remaining from time to time after provision for the current requirements of the Revenue Bond Account and the lien and charge on said net revenues in favor of improvements warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the Revenue Bond Account. In the event that monies in the Improvement Warrant Account shall be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described below, the available monies shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants in order of the maturity dates thereof. As among warrants maturing on the same date, such available monies shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

5. Replacement and Depreciation Account. Finally, there shall be maintained a Replacement and Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become prepayable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto. Any monies in said account determined to be surplus to the immediate requirements therefor may be invested or may be transferred to other city funds in the discretion of the Board, in the manner and subject to the limitations set forth in *N.D.C.C. § 40-33-12* and any acts amendatory thereof or supplemental thereto.
6. Monies on Hand. The monies on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.

7. Additional Accounts. The City also reserves the right to create additional accounts within said Water and Sewer Utility Fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility, other than the obligations made payable from the Revenue Bond Account and the Improvement Warrant Account, pursuant to the authority for such issuance reserved in section 15.0106 hereof, provided that monies on hand in any such account shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the Replacement and Depreciation Account.

05/05/80

14.0106 Provisions For Financing Capital Improvements

In borrowing money for capital improvements, extensions or additions to said utility the following provisions shall at all times be observed:

1. For the purpose of this section whenever the net revenues of the utility herein above appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants; and the portion of such costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.
2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in section 14.0105(3) hereof, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to 125% of the average annual principal and interest payments due on all bonds payable from the Revenue Bond Account which are then outstanding or then to be issued, plus such percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for water and sewerage service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such year, based upon the actual quantities of service furnished to each class of customers and the actual expense of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed 125% of the

net revenues actually received during such year.

3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become prepayable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the City shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond Account which have matured and for the payment of which the monies in the Revenue Bond Account are insufficient and cannot be made sufficient by transfer of monies from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable therefrom, but the maturity of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefor.
4. The City also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in Chapter 40-27 of the *North Dakota Century Code* and acts amendatory thereof and supplemental thereto. The lien and charge of such refunding warrants on the net revenues appropriated to the Improvement Warrant Account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.
5. Nothing herein shall be deemed to affect the obligation of the City, under the laws of the State of North Dakota, to levy ad valorem taxes upon all taxable property within its corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the City that the amounts of any deficiency tax levies so made shall be restored to the general funds of the City out of any surplus net revenues thereafter received, over and above the requirements of the several accounts of the Water and Sewer Utility Fund as stated in section 14.0105 hereof.
6. Except as hereinbefore authorized, no obligation of any kind shall be issued and made payable from said net revenues unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the Revenue Bond Account and the Improvement Warrant Account.

14.0107 Agreements With Bond and Warrant Purchasers

The City shall and does hereby covenant and agree with the original purchaser and each holder from time to time of each bond or warrant issued and made payable from the warrant issued and made payable from the Revenue Bond Account or the Improvement Warrant Account, as follows:

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.
2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competition as to the services thereby provided and in good and efficient operating condition.
3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in section 14.0105 hereof, and will revise such schedules in such manner and whenever and as often as needed to perform this covenant.
4. Under each such schedule, the City shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the City or any of its departments by the utility.
5. It will at all times maintain books of account adequate to show all receipts and disbursements of the City respecting the utility, and application of such receipts to the purposes of the several accounts described in section 14.0105 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time, and that it will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefor.
6. It will cause the annual financial statement of the City required by the provisions of *N.D.C.C. § 40-16-05* to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.

7. Upon written demand of the holder of 20% or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.
8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado, and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury of property damage which is or may become a charge against the revenues of the utility and will cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the City and the holders of obligations of the utility, and the expense of all such insurance and bonds to be accounted for as an operating cost of the utility, and the City will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.
9. The City and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed or the ordinances and resolutions of the City, in force on the date upon which any such obligations are issued and all provisions of the Constitution and laws and of such ordinances and resolutions which provide security for the holders of bonds issued hereunder are acknowledged to be a part of the City's contract with the holders from time to time of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in section 14.0104 hereof with references to any improvements constructed and financed after the effective date of such modification.
10. The holders of 20% or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time outstanding shall be privileged, and are hereby empowered, to institute and maintain, in behalf of the holders of all outstanding obligations of the same issue, any suit or proceedings at law or in equity for the protection and enforcement of any covenant, agreement, or stipulation herein provided to be performed or observed by the City or its governing body or any of its officers, whether or not any of such obligations are then in default as to principal and interest, and each and all of the rights and remedies specified and mentioned in *N.D.C.C.* § 40-35-___ through § 40-35-19, inclusive, are hereby acknowledged to be available to the holders of such obligations.

05/05/80

Article 2
Water Service

14.0201 Water System

All land, buildings, machinery, equipment, tools and apparatus, water mains, hydrants, service connections and all other property used for the purpose of furnishing a water supply to this city, and the inhabitants thereof, now owned or to be owned by this city, whether acquired by the issue of general obligation bonds, special assessment warrants or other obligations of this city, shall constitute and be known as the water works system.

05/05/80

14.0202 Water Superintendent

A water superintendent shall be appointed by the governing board. If he is a part time employee, and if he is also a city employee in some other capacity, only his services respecting the water system shall be an operating charge of the system. It shall be the duty of the water superintendent to exercise control and management of the operation of the waterworks system. He shall have power and authority to employ, subject to the approval of the governing body, all such engineers, filter plant operators, meter readers, laborers and other employees, as may be necessary to the operation of the waterworks system. All such employees shall be subject to his orders and directions, and he shall be responsible for their acts. He shall have power and authority to purchase such materials, supplies and repairs for the waterworks system, with the approval of the governing board of the city, as shall be reasonably necessary for the operation of such system. He shall keep such books and records of matters pertaining to the operation of the system, as are necessary to show the operation and condition thereof. He shall at all times be subject to the supervision and direction of the governing board. He shall perform such other duties and have such other powers and authority as are hereinafter provided for.

05/05/80

14.0203 Water Service - Application For

Any party desiring water service from said utility for premises not heretofore connected with the system shall apply for a connection on a form provided by the municipality. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the city auditor, and the applicant shall thereupon pay to the city auditor, as and for a connection charge, the sum of Four Hundred Fifty Dollars (\$450.00), or in lieu thereof shall deliver a written agreement to pay the sum of Four Hundred Fifty Dollars (\$450.00), said agreed sum to be payable without interest in _____ equal monthly installments, the first to be due and payable immediately upon delivery of such agreement and the succeeding installments one with each of the monthly water bills next thereafter issued.

No application for water and/or sewer service outside the city limits of the City shall be approved and no person outside the corporate limits of the City shall hook up to or make connection with the city water and/or sewer system whether the same now is outside or inside the incorporated limits of the City. Water service outside the corporate limits of the City may be permitted pursuant to contractual agreement of the governing body arising in limited and extraordinary circumstances but

shall be permitted only upon a resolution adopted by majority vote of the governing body. Application for water and/or sewer service outside the city limits shall be accompanied by written waiver and permission from the appropriate rural water service permitting the connection. If approved by the City Council, said rural water connection shall pay a One Thousand Dollar (\$1,000.00) connection charge and water rates are to be billed equal to commercial rates charged by the City.

03/05/01; 03/02/09

14.0204 Water Service - Construction of - Maintenance of by Owner

The cost of original installation of all plumbing between the curb and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the municipality. Any repairs found to be necessary by such representatives shall be made promptly, or the municipality will discontinue service.

05/05/80

14.0205 Water Service - To Property With Delinquent Assessments

No permit shall be issued for the making of any connection between any water main of the City and any property on which any special water main assessment taxes are delinquent.

05/05/80

14.0206 Water Service - Who May Tap

No person other than an employee of the water department or a qualified person under the supervision of the water superintendent, shall make any tap or connection to a main. The tapping of any mains of said system, and the insertion of the corporation cock in said main shall be done under the supervision of the water superintendent.

05/05/80

14.0207 Water Service - Meter Required

It shall be unlawful for any person to use water from any premises without the consent of the owner, or to use water from the municipal water system except when drawn through a meter installed by the municipality. No person except an authorized representative of the water superintendent shall turn on or off or tamper with any curb cock.

05/05/80

14.0208 Water Service - Branch Service - When

Unless special permission is granted by the water superintendent, each premise shall have a separate and distinct water service connection, and where permission is granted for branch service systems each branch system must have its own separate meter and separate curb cock.

05/05/80

14.0209 Water Service - Meter Required - Location, Seals

Meters shall be firmly and substantially set in a workmanlike manner in a convenient and readily accessible location free from hazard of freezing for reading and inspection. Such location is subject to approval by the City. No tap or withdrawal of water by the consumer for any purpose shall be permitted ahead of the City meter, or between the meter and the main line. The consumer shall not, after original installation of a meter, make any alterations or additions which will interfere with the repair, maintenance, reading or operation of the meter.

Meters shall at all times be sealed and such seals shall not be broken. Meters shall be removed only by authorized employees of the waterworks department or under their supervision

05/07/07

14.0210 Water Service - Meters

All water meters shall be owned by the City of Emerado. The City shall have the full power of control, substitution, repair or abandonment of said meters. All water meters may, at the sole discretion of the water department, be removed for examination or repair, or any necessary repairs may be made thereon by the water department. All water meters shall be maintained by the water department without charge to the property owner except in cases where the meter has been removed, injured, tampered with, or the seal broken except under direction of the water superintendent. The expense of repairing any meters broken, frozen, injured, defaced or tampered with by any persons other than those employed in the water department shall be a charge against the consumer, and shall be billed with the next month's water bill and shall become due and delinquent and subject to the same penalties as in the case of delinquent water bills. The City of Emerado shall regularly inspect the installation, maintenance and operation of water meters. The City of Emerado shall establish a rotating schedule for inspection of approximately one-tenth of all meters in any given calendar year. If at any time a consumer desires to have the meter tested for accuracy, the same shall be done by the City and a fee of One Hundred Dollars (\$100.00) shall be charged therefore to the consumer if the meter registers 98% or more accurate. If the meter registers less than 98% accurate, it shall be repaired or replaced as appropriate and the fee refunded.

12/03/02

14.0211 Water Service - Services - Installation of

In installing water service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by the municipality's employees only, or under their direct supervision. All service pipes connected with the water system shall be laid 7.5 feet below the established grades or as low as the street mains. All sewer service pipes shall be of a material approved by the water superintendent.

05/05/80

14.0212 Curb Cocks

There shall be a curb cock in every service line attached to the water mains, the same to be placed as near as possible to the curb if on a street, or within one foot of the alley line if the main is located

in the alley. Curb cocks shall be supplied with strong and suitable "T" handles and shall be enclosed in a substantial iron case covered with a tight fitting iron lid with the letter "W" cast upon it. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb cock and the meter so that the water can be shut off and the meter and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

05/05/80

14.0213 Check Valves

Check valves are hereby required on all water connections to steam boilers or any other connections deemed by the water superintendent to require one. Safety and release shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of fifty (50) pounds per square inch.

05/05/80

14.0214 Regulations Governing Service

The following rules and regulations shall be considered a part of the contract with every person who takes water supplied by the City through the City waterworks system and every such person who takes water shall be considered as having expressed his agreement to be bound thereby.

1. Shutting Off Water: Who Authorized. No person except an authorized employee of the water department shall shut off or turn on the water at the curb cock to any premises without first obtaining permission from the water department.
2. City Reserves Right to Shut Off Water, Notice. In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. The City shall in such case make such effort as is practicable to give previous notice to consumers.
3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.
4. Shutting Off Water: Charge For. The water department shall make a charge of Twenty Dollars (\$20.00) each for shutting off or turning on services.
5. Entrance and Access to Premises by Waterworks Employees. Authorized employees of the water department shall have free access in any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or

occupant, and to shut off the water to premises where free access is prevented.

6. Fire Hydrants, Who May Open. No person except City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the water superintendent.

05/05/80

14.0215 Rates and Charges

The City Council of the City of Emerado shall, from time to time, by resolution set the rates and charges for water service provided by the Emerado Water System.

Mobile home parks served by one or more central water meter shall be billed by dividing the total gallons used by the number of mobile home lots in the mobile home park. The total bill shall be computed by using the residential rate schedule in the same manner as if each individual mobile home lot was on a separate meter.

Each new consumer of water services, whether or not a connection charge is applicable, shall be required to pay a deposit to the City which shall be used to cover any delinquent water bills as follows: Residential – \$100.00, Commercial \$200.00, Rural – \$200.00. When a consumer disconnects service, the deposit will be applied to the final water bill owed by the consumer or shall be refunded in whole or in part if all bills are paid.

Meters shall be read by the customer on the 20th of each month and it shall be the customer's responsibility to determine the amount owed. The City Auditor shall make whatever information that is necessary available to the customer to assist in determining bill amounts. Bills shall be payable at the office of the City Auditor by the 1st of the month following the reading of the meters. If any bills for the service of the water systems shall remain unpaid after the 15th day of the month following the reading of the meter, a late payment penalty will be assessed (see section 14.0701). If the amount remains unpaid after the 30th of the month, the water supply for the lot, parcel of land, or premise affected shall be cut off and a fee of Fifty Dollars (\$50.00) assessed. Service shall not be turned on again except on payment in full and payment of a reconnection charge in the amount of Fifty Dollars (\$50.00).

In addition thereto, there shall be and there is hereby established rates and charges for the service supplied by the City for installation, operation, and maintenance of street lights, in an amount to be set by resolution of the City Council of the City of Emerado. Said charge to be added to the monthly water bill and due and payable under the same terms and conditions as established under this ordinance for the payment of the monthly water bill.

01/06/00; 03/02/09; 01/04/10; 01/07/13

14.0216 Rates and Charges - Liability For

Owners of premises where water is supplied shall notify the water department in case of any tenant moves from said premises, prior to such moving. In case said tenant moves from said premises to other premises in the city, and is there supplied with water, he shall be liable for the water used at

his former residence up to the time of moving, and the water department shall take such measures to enforce the collection of such water bill as are provided for in the case of non-payment of other water bills. In case said tenants moves away from said city or moves to some place within said city where he is not directly supplied by said water department with water and refuses or neglects to pay said bills within fifteen (15) days after notice thereof, then and in that event the owner of the property for which said bill was rendered shall be liable for said bill, and the water provided for in the case of non-payment of other water bills.

The owner or owners of all real property in the city furnished water service or service line repairs shall be responsible for the payment of any and all such charges, regardless of who the occupant or tenant may be. On request of the owner or owners, the Water Superintendent will bill the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant for such charges, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the City Auditor to certify to the County Auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

05/05/80

ARTICLE 3
SEWER SERVICE

14.0301 Application For

Application for sewer service shall be filed with the City Auditor upon a form to be supplied by the City. The application shall state the name of the application and the premises to be served. All applicants shall be accompanied by a fee payable to the City for a connection charge, determined by the proportion of the applicant's use of sewer facilities, in the moment or manner set forth below.

One and two family residences	\$260.00
Cafes or restaurants (having less than 1,200 square feet of space).	\$520.00
On sale bars (having less than 1,500 square feet of space).	\$780.00
Gasoline service stations	\$520.00
Grain Elevators	\$520.00
Potato warehouses (not processing plants).	\$520.00
Motels (per unit)	\$130.00
Mobile home parks (per mobile home).	\$ 40.00
Commercial establishments (having less than 1,500 square feet of space)	\$260.00
Industrial establishments.	\$520.00

All applicants not specifically described above, including but not limited to establishments with larger square footage than that specified, and applicants with unusual water and sewer requirements, such as car washes, laundromats and the like, shall pay a connection charge as prescribed by the governing body of the City in an amount approximately proportional to their use of the facilities.

12/05/94

14.0302 Rates

The sewer rates to be charged shall be fixed from time to time by resolution of the Governing Board, and the City reserves the right to change the rates from time to time as it deems best.

05/05/80

14.0303 Charges

The Water Department is hereby authorized to add the sewer charges provided for herein to its charge for water services and waste collections and submit the same on a bill in connection with said water service bills. The Water Department shall be authorized to discontinue all utility services if the entire bill shall not be paid, including the bill for sewer charges. In all places where water service is provided, the monthly charges set forth shall be added to and collected as a part of the water bill and collected by the Water Department of the City. Said sums shall be come delinquent upon the same dates of the water bill upon which the same is charged. If said service charge is not paid when due, the water service of said premises may be shut off in the same manner as provided for water.

In all places where water service is not provided the charge above set forth shall be paid to the Water Department of the City upon monthly bills from said Water Department.

If the service charge so established is not paid when due, said sum may be recovered by the City in an action at law against the owner or occupants or both of the property so served and may also be assessed against the premises so served and collected and returned in the same manner as other county and municipal taxes are assessed, certified, and collected and returned.

05/05/80

14.0304 Installation of Services

All sewer tops, street excavations and replacement thereof and installations of lines from the City sewer mains to the property lines shall be under the control of the City Engineer or other authorized person.

05/05/80

14.0305 Property Owner Maintenance of Drain Pipes

Each property owner will be responsible for the upkeep and maintenance of above ground drain pipes. The drain pipes will be maintained at an elevation where clear water cannot enter. These pipes will be maintained consistent with the standards set by the City Engineer within one month of notification. If at any point it becomes necessary for the City to work on maintenance of above ground pipes, then the property owner will be liable for reimbursement to the City.

10/05/87

Article 4
Use and Installation of Sewers

14.0401 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
2. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
6. "Floatable oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
7. "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
8. "Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
9. "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "May" is permissive (see "Shall," 18).
11. "Person" shall mean any individual, firm, company, association, society, corporation or group.
12. "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration.

The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

13. "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch (1.27 centimeters) in any dimension.
14. "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
15. "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
16. "Sewage" is the spent water of a community. The preferred term is "wastewater" (24).
17. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "May," 10).
19. "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
20. "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
21. "Superintendent" shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or his authorized deputy, agent, or representative.
22. "Suspended solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods of the Examination of Water and Wastewater" and referred to as nonfilterable residue.
23. "Unpolluted water" is water of quality equal to or better than the effluent criteria in

effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

24. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.
25. "Wastewater facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
26. "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
27. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
28. "Hearing Board" shall mean the board appointed according to provision of section 14.0408.

05/05/80

14.0402 Use of Public Sewers Required

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Emerald, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

It shall be unlawful to discharge to any natural outlet within the City of Emerald, or in any area under the jurisdiction of said City, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at the owners expense to install suitable facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within two hundred 200 feet (61 meters) of the property line.

14.0403 Private Wastewater Disposal

Where a public sanitary or combined sewer is not available under the provisions of section 14.0402 above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) shall be paid to the City at the time the application is filed.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Superintendent.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations and or regulations of the North Dakota State Department of Health. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.

At such time as a public sewer becomes available to property served by a private wastewater disposal system, as provided above, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense of the City. All sludge or solids, to be disposed of from a septic tank, cesspool, or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with the North Dakota State Department of Health Regulation 23-19-0.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local Health Officer.

05/05/80

14.0404 Sanitary Sewers, Building Sewers and Connections

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner, or his agent, shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) for residential or commercial building sewer permit and Twenty Dollars (\$20.00) for an industrial building sewer permit shall be paid to the City at the time that the application is filed.

All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent and the North Dakota State Department of Health.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his representative.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

05/05/80

14.0405 Use of the Public Sewers

No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the Superintendent and the North Dakota State Department of Health.

Storm water other than that exempted by the above means and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent and the North Dakota State Department of Health.

No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other waste, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharges from the treatment works.
- (c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

The following described substances, materials, waters, or waste shall be limited in discharges to

municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

- (a) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (b) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- (c) Wastewater from industrial plants containing floatable oils, fat or grease.
- (d) Any garbage that has not been properly shredded (see Section 1 #13). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Superintendent for such materials.
- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- (h) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- (i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot

meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

- (j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, from suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges under the provisions of paragraph 11 of this section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and the North Dakota State Department of Health.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified above, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the North Dakota Plumbing Code and shall be located as to readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent. Any removal and having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

Where pretreatment of flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other

appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

The Superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:

- (1) Wastewaters discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewater.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis by the Superintendent.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

05/05/80

14.0406 Penalty

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

05/05/80

14.0407 Powers and Authority of Inspectors

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

While performing the necessary work on private properties referred to above, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in section 14.0405, paragraph 8.

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

05/05/80

14.0408 Hearing Board

A Hearing Board, consisting of three (3) members. They shall be selected as needed for arbitration of differences between the Superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Superintendent.

One member of the board shall be selected to represent the City, one member shall be selected to represent the sewer user involved in the arbitration, and the third member shall be acceptable to both parties and shall serve as the Chairman in the arbitration.

05/05/80

14.0409 Penalties

Any person found to be violating any provision of this Ordinance except 14.0407 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in

such notice, permanently cease all violations.

Any person who is found to have violated an order of the City Council, or the control authority, or who wilfully or negligently failed to comply with any provision of this Chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not more than One Thousand Dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys fees, court costs, court reporters fees, and other expenses of litigation by appropriate suit at law against a person or persons found to have violated this Chapter or the orders, rules, regulations and permits issued hereunder.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or industrial waste permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per incident or by imprisonment for not more than thirty (30) days, or by both.

12/03/02

Article 5
Sewer Service Charges

14.0501 Purpose

The purpose of this ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the wastewater system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and SS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

05/05/80

14.0502 Determining the Total Annual Cost of Operation and Maintenance

The City of Emerado, North Dakota, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include but need not be limited to, labor, repairs, equipment, replacement, maintenance, necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund.

05/05/80

14.0503 Determining Each User's Wastewater Contribution Percentage

The City of Emerado, North Dakota, or its City Engineer, shall determine each user's average daily volume of wastewater, which has been discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharge to the wastewater system, to determine each user's Volume Contribution Percentage. The amount used as the total average daily

volume of wastewater shall exclude infiltration and inflow. The City of Emerado, North Dakota, or its City Engineer, shall determine each user's average daily poundage of all 5-day 20 degree centigrade Biochemical Oxygen Demand discharged to the wastewater system to determine each user's Biochemical Oxygen Demand Contribution Percentage.

The City of Emerado, North Dakota, or its City Engineer, shall determine each user's average daily poundage of suspended solids which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all suspended solids discharged to the wastewater system, to determine the user's Suspended Solids Contribution Percentage. Each user's Volume Contribution Percentage, Biochemical Oxygen Demand Contribution Percentage and Suspended Solids Contribution Percentage shall be multiplied by the annual operation and maintenance costs for the total volume, the total 5-day, 20 degree centigrade Biochemical Oxygen Demand, and the Suspended Solids, for the wastewater system, respectively.

05/05/80

14.0504 Determining a Surcharge System for Users With Above Normal Volume BOD and SS

The City of Emerado, North Dakota, or its City Engineer, will determine the average Suspended Solids (SS) and Biochemical Oxygen Demand (BOD) daily loadings for the average residential user and residential user class. The City of Emerado, North Dakota will assess a surcharge rate of all non-residential users discharge wastes with volume, BOD, and SS strengths greater than the average residential user. Such users will be assessed a surcharge, sufficient to cover the costs of treating such user's above normal strength wastes and/or volume. Normal strength wastes are considered to be 200 mg/1 BOD and 250 mg/1 SS.

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL VOLUME OF WASTES: Residential users are considered to be one class of user and are hereby levied a charge of \$6.00 per month. Non-residential users with flows no greater than the average residential user's flow of 3,000 gallons per month and with BOD and SS no greater than the above residential user's strength will be levied the same charge of \$6.00 per month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of \$1.00 per 1,000 gallons per month for all flows greater than the average residential user's flow of 3,000 gallons per month.

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL STRENGTH WASTES: Any non-residential user with BOD and SS greater than the average residential user's strength will pay a surcharge in accordance with the rates determined by the City or its Engineer.

The City of Emerado, North Dakota, or its Engineer, may determine the suspended Solids (SS) and 5-day biochemical oxygen demand (BOD) daily loadings for the average residential user and/or user class or in lieu of such a determination can consider the average residential strength wastes to be 200mg/1 BOD and 250mg/1 SS. The City of Emerado, North Dakota, will assess a surcharge rate

for all non-residential users discharging wastes with BOD and SS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such user's above normal strength wastes. Such users will pay an additional user charge of 4.0 cents per 1,000 gallons for each 25 mg/1 or fraction thereof over 200 mg/1 of BOD and 0.10 cents per 1,000 gallons for each 25 mg/1 or fraction thereof over 250 mg/1 SS.

05/05/80

14.0505 Wastewater Facilities Replacement Fund

A reserve fund called the wastewater facilities replacement fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories, and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for such facilities as designed and constructed.

The reserve fund called the wastewater facilities replacement fund established within the wastewater utility fund as an interest bearing account shall be funded by a deposit of Five Hundred Dollars (\$500.00) per year obtained from the wastewater utility fund at the end of each fiscal year.

05/05/80

14.0506 Determining Each User's Wastewater Service Charge

Each non-residential user's wastewater cost contributions, as determined in sections 14.0503 and 14.0504, shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial, and other non-residential establishments are equivalent to the wastes from the average residential user with respect to volume Suspended Solids, and 5-day 20 degree centigrade Biochemical Oxygen Demand.

05/05/80

14.0507 Payment of the User's Wastewater Service Charge and Penalties

The City may submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The City shall add a penalty of 10 percent per month if the payment is not received by the City within 15 days. Should any user fail to pay the user wastewater service charge and penalty within 2 months of the due date, the City may stop the wastewater service to the property.

05/05/80

14.0508 Review of Each User's Wastewater Service Charge

The City shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentage not less often than every two years, and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater system. If a

significant user, such as an industry, has completed in-plant modifications which would change that user's Wastewater Contribution Percentage, the user can present at a regularly scheduled meeting of the governing body such factual information and the City shall then determine if the user's Wastewater Contribution Percentages are to be changed. The City shall notify the user of its findings as soon as possible.

05/05/80

14.0509 Notification

Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

05/05/80

14.0510 Wastes Prohibited From Being Discharged to the Wastewater System

The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any wastewater treatment process, constitute a hazard in or have an adverse effect on the water receiving any discharge from treatment works is hereby prohibited.

05/05/80

Article 6

14.0601 Safe Drinking Water - Lead Prohibited

The use of certain lead solder, flux and pipes in the installation and repairs of the City's public water supply systems, and in residential and non-residential plumbing connected to the City's public water supply system, is prohibited. The City will periodically test its water and notify the residents of the City of the parts per million of lead contamination as tested by EPA testing standards.

05/02/88

14.0602 Licensed Plumbers Required

Any person who does plumbing in the City or who constructs, installs or repairs water and sewer service lines from the City Main to the building shall be licensed plumbers or licensed sewer and water contractors licensed with the North Dakota State Plumbing Board.

05/02/88

14.0603 Penalty

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not to exceed 30 days, or both, upon conviction of any person of a violation of Article 6 hereinabove.

05/02/88

Article 7

14.0701 Late Payment Penalties

When any account for utilities, services, water, sewer, garbage or other utilities or services are rendered by the City and the account shall be at least fifteen (15) days late, a late payment charge of 1½% per month or Ten Dollars (\$10.00) per month whichever is greater shall be charged on the balance for each successive month.

10/01/96