

TITLE IX.

WATER AND SEWERS

CHAPTERS:

- 9-01. Utility Established.
- 9-02. Water Services.
- 9-03. Sewer Service.

CHAPTER 9-01
UTILITY ESTABLISHED

SECTIONS:

- 9-0101. Water and Sewer Utility Created.
- 9-0102. Scope of Utility.
- 9-0103. Service Charges - Use Of.
- 9-0104. Policy on Improvements - Extensions.

9-0101. **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.

9-0102. **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 moneys to be derived thereafter from the services, facilities, products and by-products of said utility, shall be and are hereby appropriated and dedicated to 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.

9-0103. **SERVICE CHARGES - USE OF.** Said utility shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and by-products 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 reserves; to product net revenues which shall be sufficient at all times to pay promptly the principal and interest due on all obligations of the City incurred for the improvements, extension and enlargement of said utility, to the extent that such obligations are according to their 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 the 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 actions authorized in the manner provided by law and is deemed fair and equitable by the governing body.

9-0104. **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:

2. Where water mains not exceeding six inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential properties, and 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.

3. Where a trunk main is installed, the governing body upon advice of the City Engineer, or his designate, 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.
4. 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 the properties determined by the governing board to require the immediate construction of such main as a trunk sewer, including properties served or capable of being served by lateral sewers connected thereto, in amount proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
5. 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.
6. 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 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.
7. Such portion of the cost of any improvements, extension or additions to the utility as 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.
8. 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 such property or to impose or 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.

CHAPTER 9-02
WATER SERVICE

SECTIONS:

- 9-0201. Water System.
- 9-0202. Water Superintendent.
- 9-0203. Water Service - Application For.
- 9-0204. Water Service - Construction Of - Maintenance by Owner.
- 9-0205. Water Service - To Property Not Previously Assessed.
- 9-0206. Water Service - To Property With Delinquent Assessments.
- 9-0207. Water Service - Who May Tap.
- 9-0208. Water Service - Meter Required, Exceptions.
- 9-0209. Water Service - Branch Service - When.
- 9-0210. Water Service - Meters, Location, Seals.
- 9-0211. Water Service - Meter Purchase Required.
- 9-0212. Water Service - Services - Installation Of.
- 9-0213. Curb Cocks.
- 9-0214. Check Valves.
- 9-0215. Regulations Governing Service.
- 9-0216. Rates and Charges.
- 9-0217. Rates and Charges - Liability For.

9-0201. **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 the 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 waterworks system.

9-0202. **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 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 body 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 perform such other duties and have such other powers and authority as are hereinafter provided for.

9-0203. **WATER SERVICE - APPLICATION FOR.** Any party desiring water service from said utility for premises not theretofore 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, a sum to be set by resolution by the governing body, or in lieu thereof shall deliver a written agreement to pay said sum, 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 instalments one with each of the monthly water bills next thereafter issued. Such payment or written agreement shall be returned to the applicant if the application is refused. Said connection charge shall be in full payment of the cost of installing the service pipe or pipes from the municipality's main opposite the premises to the owner's property line (unless the cost thereof has been assessed against the property) and for water curb cocks, installation of water meters, and supervision of the customer's connection with the system.

9-0204. **WATER SERVICE - CONSTRUCTION OF - OWNERSHIP - MAINTENANCE BY OWNER.** The cost of original installation of all plumbing between the main and any service devices maintained by the property owner and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the property owner, although such plumbing and service as well as the meters shall at all reasonable times be subject to inspection by a duly authorized representative of the municipality. Any repairs found to be necessary by such representatives shall be made promptly, or the municipality will discontinue service.

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. The property owner will own the water service. The City will own the curb cock. "Services" means the service line running from and including the point of corporation with the City main to owner's premises.

Source: Ord. 2019-75, Sec. 1

9-0205. **WATER SERVICE - TO PROPERTY NOT PREVIOUSLY ASSESSED.** No permit shall be issued for the mating of any connection between any water or sewer lines and any property which has not been previously benefitted by existing water and/or sewer lines, or

whenever the owners of such property have not been assessed for such water and sewer facilities, unless and until such person shall have paid or made a written agreement with the City to pay in monthly installments within a maximum of two (2) years an amount of money as may be therefore determined by the governing body. Such amount shall be based upon the area served and benefit resulting to the property involved. Within thirty (30) days from the date of receipt of such application, the governing body shall determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such moneys paid and received pursuant to the provisions of this section shall be placed in the Water and Sewer Utility Fund and shall be expended in accordance with the purposes of such fund.

Source: Ord. 2019-75, Sec. 2

9-0206. **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.

9-0207. **WATER SERVICE - WHO MAY TAP.** No person other than an employee of the water department 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.

9-0208. **WATER SERVICE - METER REQUIRED - EXCEPTIONS.** 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, or when not drawn through a meter, to have made arrangements with the water superintendent for a "flat rate" account as hereafter provided for in Section 9-0216 herein. No person except an authorized representative of the water superintendent shall turn on or off or tamper with any curb cock.

9-0209. **WATER SERVICE - BRANCH SERVICE - WHEN.** Unless special permission is granted by the water superintendent, each premises 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.

9-0210. **WATER SERVICE - METERS, LOCATION, SEALS.** Meters shall be firmly and substantially set in a workmanlike manner in a convenient and readily accessible location for reading and inspection. No tap or withdrawal of water by the consumer for any purpose shall be permitted ahead of the water 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 have been broken. Meters shall be removed only by authorized employees of the waterworks department.

9-0211. **WATER SERVICE - METER PURCHASE REQUIRED.** There shall be and hereby is established a covenant between the City and the property owner requiring a water meter. Upon installation of a water meter, the property owner will be charged the actual present cost of the water meter. The City agrees to maintain and service said meter without future cost to the property owner. The City further agrees to provide, free of charge, replacement meters as is necessary should a meter become inoperable through no negligence of the property owner. Such original costs of the meter may not be recovered from the City should the property owner dispose of the facility receiving said water service through any means.

Source: Ord. 2019-75, Sec. 3

9-0212. **WATER SERVICE - SERVICES - INSTALLATION OF.** In installing water service, all taps shall be driven, streets 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, in accordance with the City specifications and under the supervision of the water superintendent. All services installed on private property must meet the minimum requirements set forth in the Exterior Work Installation Checklist, a copy of which is on file with the City Auditor. All service pipes connected with the water system shall be laid a minimum of seven (7) 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.

Source: Ord. 2019-75, Sec. 4

9-0213. **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 waster cock in the pipe on the house side of the meter.

9-0214. **CHECK VALVES.** Check valves are hereby required on all water connections to steam boilers, irrigation systems, or any other connection deemed by the water superintendent to require one. Safety and release valves 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 pounds per square inch.

Source: Ord. 2019-75, Sec. 5

9-0215. **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 cases 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, wheter 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 City Council shall set the water shut-off fee by Resolution.
5. Entrance and Access to Premises by Waterworks Employee. Authorized employees of the water department shall have free access to 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 persons 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.

9-0216. **SUBSECTION (A) RATES AND CHARGES.** Rates and charges shall be set by resolution of the City Council.

9-0217. **RATES AND CHARGES - LIABILITY FOR.** Owners of premises where water is supplied shall notify the water superintendent in case 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 tenant moves away from said City where he is not directly supplied by said water department and refuses or neglects to pay said bill 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 department shall take such measures to enforce collection of such water bill, as are provided for in the case of nonpayment 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, 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 collection in the same manner.

CHAPTER 9-03
SEWER SERVICE

SECTIONS:

- 9-0301. Application For.
- 9-0302. Rates.
- 9-0303. Charges.
- 9-0304. Installation of Service.
- 9-0305. The User of Public and Private Sewers and Water Systems.
- 9-0306. Inspection and Surcharge Authority Regarding Improper Connection to City Sewer System.

9-0301. **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 applicant and the premises to be served. The applications shall be accompanied by a fee for the connection charge, in an amount as may be from time to time set by the governing body.

9-0302. **RATES.** The sewer rates to be charged shall be fixed from time to time by resolution of the City Council, and the City reserves the right to change the rates from time to time as it deems best.

9-0303. **CHARGES.**

1. The Water Department is hereby authorized to add the sewer charge provided herein to its charges for water services and waste collection 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 charge 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 become 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.
2. 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.
3. If the service charge so established is not paid when due, said sum may be recovered by the City in an action

of law against the owners 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.

9-0304. **INSTALLATION OF SERVICES.** All sewer taps, street excavations and replacement thereof and installation of lines from the City sewer mains to the property line shall be under the control of the City Engineer or other authorized person. Installation must be in accordance with the City specifications. All services installed on private property must meet the minimum requirements set forth in the Exterior Work Installation Checklist, a copy of which is on file with the City Auditor.

Source: Ord. 2019-75, Sec. 6

9-0305. **THE USE OF PUBLIC AND PRIVATE SEWERS AND WATER SYSTEMS.**

1. Certain sanitary regulations are hereby created for the City of Kindred, North Dakota.
2. It shall be unlawful to discharge to any natural outlet within the City of Kindred any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided.
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy unit, septic tank, cesspool, or other facility intended or used for the disposal of sewage and water within the City.
4. The owner of all houses, buildings or property used for human occupancy within the City is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer system in accordance with provisions of this ordinance within thirty (30) days after the public sewer system has been constructed by the City, provided that said public sewer system is within 200 feet of the property line.

The cost of original installation of all plumbing between the main and any service devices maintained by the property owner and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the property owner.

All services must be constructed by a licensed plumber at the owner's expense, and each service must be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed

against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the property owner. The property owner will own the sewer service. "Service" means the service line running from and including the point of connection with the City main to the owner's premises.

Source: Ord. 2019-75, Sec. 7

5. Where a public sanitary sewer system is not available, the building toilet facilities shall be connected to a private sewage system, which system shall be approved by the City and which shall be inspected on occasion as the City may desire. The City shall not approve any private sewage system unless the same discharges into a suitable drainage field and said septic tank or cesspool shall not be permitted to be discharged into any public way or public stream.
6. At such time as the public sewer system becomes available to the property served by private sewage system, direct connections shall be made to the public sewer system in compliance with this ordinance, and any septic tank, cesspool or similar private sewage facility shall be abandoned and filled with suitable material.
7. In the event property which has a private water system connects to the City public water system, said connection shall be made and maintained so that water from the private system cannot become intermixed with the public system, and the failure to do so will be a violation of this ordinance.
8. Every person, firm or corporation convicted of a violation of any of the provisions of this Chapter for which another penalty is not specifically provided, shall, upon conviction thereof, be punished by a fine of not more than \$50. Each daily continuance of the violation shall be treated as a separate violation hereof.

9-0306. INSPECTION AND SURCHARGE AUTHORITY REGARDING IMPROPER CONNECTIONS TO CITY SEWER SYSTEM.

1. Discharges of storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters into areas with inadequate drainage tend to create a harborage for insect and vermin infestations and are hereby deemed a nuisance. No owner, occupant or user of property therefore may discharge any storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters in such a manner so as to allow the collection of

the same on their property or other properties without proper drainage. Discharges of storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters by the use of such devices as sump pumps must be made directly into the storm sewer system of the City of Kindred or drainage ditches which run thereto.

2. Every person owning improved real estate that discharges into the City's sanitary sewer system shall allow City employee(s) to inspect the building to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system during the prohibited time period. Any person refusing to allow their property to be inspected within fourteen (14) days of the date City employee(s) are denied admittance to the property shall immediately become subject to a surcharge hereinafter provided for.
3. A surcharge of \$100.00 per month is hereby imposed and added to every sewer billing mailed on and after July 1, 2004, to property owners who are not in compliance with paragraph 1 of this section. The surcharge shall be added every month through November 30, 2005, until and unless the property is in compliance. The surcharge shall continue to be levied monthly for the months of March through November (both inclusive) for every year on properties not complying with paragraph 1 of this section. Provided, the surcharge shall not be charged unless a property has been inspected and found not to be in compliance, or if the person owning improved real estate refuses to allow an inspection.
4. When a structure is being constructed in the City of Kindred, if at or prior to final inspection City staff determine that the sump pump connection has been illegally connected to the City's sanitary sewer system such that there will be a permanent discharge into the City's sanitary sewer system, there shall be levied a \$500 administrative fine against the general contractor for the structure found to be in violation. If after 24 hours after written notice from the City the general contractor has not remedied the situation so that the sump pump connection can be arranged so that no surface runoff or groundwater can enter into the City's sanitary sewer system from May 1 to November 30 of each year, there shall be an additional \$100 administrative fine for each day such a violation exists. In addition, the Building Inspector shall not issue another building permit within the jurisdiction of the Building Inspector of the City of Kindred for that contractor until the violation has been remedied and any administrative fine has been fully paid to the City. A contractor who is

informed of the administrative penalty shall have seven (7) days from the date of his notification of the same to request, in writing, a hearing on the issue of whether or not the basis for the administrative penalty actually exists. Such letter must be filed with the City Auditor of the City of Kindred. Upon receipt of such a letter, in a timely fashion the City Auditor shall set the matter for hearing at the next City Council meeting. The contractor claiming that the basis for the penalty is incorrect shall have the burden at that hearing to establish that the violation set forth by the City staff is, in fact, incorrect. The City Council shall either confirm the determination of violation by City staff or modify or eliminate the penalty if the evidence is such that it establishes no violation occurred.