

TITLE IX.

WATER AND SEWERS

CHAPTERS:

- 9-01. Utility Established.
- 9-02. Water Services.
- 9-03. Sewer Service.
- 9-04. Storm Water Management.

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:

1. 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.
2. 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.
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 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.
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 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 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.
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 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.
- 9-0218. Private Fire Hydrants.

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.

9-0218. **PRIVATE FIRE HYDRANTS.** Source: Ord. 2022-93, Sec. 1

1. Hydrants within private property installed in the city limits of the City of Kindred must meet the following requirements:
 - a. Copies of engineered plans or drawings, accurately indicating the main size, the location of all valves, hydrants and thrust blocks to be installed, must be submitted to the City Engineer with utility drawings at least fifteen (15) working days prior to beginning of any construction.

- b. The City Auditor and the Kindred Fire Department must be notified in writing by the owner when the hydrant(s) will be available for use and when they are placed in service.
 - c. Construction may not commence until the plans required under this chapter have been submitted and approved. No building may be occupied until hydrants for its protection are placed in service and accepted.
2. All locations of hydrants within private property must be approved by the Kindred Fire Department.
 3. An auxiliary gate valve must be installed at the main line tee to permit the repair and replacement of the hydrant without disruption of water service.
 4. Any water from any private hydrant used for non-emergency purposes must be metered in accordance with the terms and conditions set by the City of Kindred. The property owner must provide written notification to the City Auditor at least 24 hours prior to any such non-emergency use. The property owner will be responsible for any and all costs associated with any non-emergency use.
 5. Unobstructed access to hydrants within private property must be maintained at all times. The City of Kindred, or any representative thereof, or the Kindred Fire Department will have the right to go upon the premises and to use the hydrant for testing, flushing and public emergency uses.
 6. All hydrants within private property will be subject to inspection by a duly authorized representative of the City, both during the course of construction and after construction is complete. The inspector will have the authority to determine whether or not materials of construction, methods of construction and workmanship comply with working drawings and specifications. The contractor will provide for reasonable tests and proof of quality materials as requested by the inspector. The inspector may require that work be suspended for due cause. For purposes of this section, "due cause" includes adverse weather conditions, poor workmanship, the use of questionable materials or methods of construction, and non-adherence to specifications and drawings.
 7. All hydrants within private property, following completion of construction, must be inspected at least once during a 12-month period. All property owners with private hydrants must allow the inspector access to conduct the inspection. Any repairs will be the responsibility of the property owner and must be completed within the specified time period determined by the inspector.
 8. Any maintenance, repairs or replacement required on hydrants within private property must be done by a licensed and bonded contractor with the City.
 9. Any and all costs associated with inspection, maintenance, repairs and/or replacement of hydrants within private property will be the responsibility of the property owner.

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.

CHAPTER 9-04

STORM WATER MANAGEMENT

SECTIONS:

- 9-0401. General Provisions.
 - 9-0402. Storm Water Management Plan.
 - 9-0403. Suspension, Revocation and Stop Work Orders.
 - 9-0404. Violations and Enforcement.
-

9-0401. GENERAL PROVISIONS.

- A. Purpose. This chapter sets forth uniform requirements for storm water management systems within the City of Kindred. In the event of any conflict between the provisions of this chapter or other regulations adopted by the City of Kindred, State or Federal authorities, the more restrictive standard prevails. The objectives of this chapter are as follows:
1. To promote, preserve, and enhance the natural resources within the City of Kindred from adverse or undesirable impacts occasioned by development or other activities;
 2. To protect and promote the health, safety, and welfare of the people and property through effective storm water quantity and quality management practices.
 3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on storm water quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;
 4. To establish detailed review standards and procedures for land development activities throughout the City of Kindred, thereby achieving a balance between urban growth and development and the protection of water quality; and
 5. To provide for adequate storm water system analysis and design as necessary to protect public and private property, water quality and existing natural resources.

This Chapter applies in the City of Kindred, North Dakota, and to persons outside the City who are, by contract or agreement with the City, users of the City storm water management system. Except as otherwise provided herein, the City Public Works Director, or his/her designee, shall administer, implement, and enforce the provisions of this Chapter.

- B. Definitions. For the purpose of this chapter and the Storm Water Management Policy, the following terms, phrases, and words, and their derivatives, will have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and the word “may” is always permissive.
1. “Applicant” means any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, storm water plan approval, storm water management permit or any other permit which allows land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term “applicant” also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.
 2. “Base Flood,” “Regional Flood,” or “100 Year Flood” means the flood having a one percent chance or probability of being equaled or exceeded in any given year (i.e., 100-year flood) - also referred to as the regional flood or 100-year flood.
 3. “City” means the City of Kindred or the City Council of the City of Kindred.
 4. “City Public Works Director” means the City Public Works Director of the City of Kindred or authorized agent.
 5. “Control Measure” means a practice or combination of practices to control erosion and attendant pollution, see also Best Management Practices.
 6. “Design Events” means the critical rainfall events used to measure the storm water impacts of the proposed land or site development.
 7. “Detention Facility” means a natural or manmade structure, including wetlands used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff.
 8. “Development” means any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.
 9. “Developer” means a person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.
 10. “Discharge” means the release, conveyance, channeling, runoff, or drainage, of storm water, including snow melt.

11. “Erosion” means removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.
12. “Impervious Area” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas; and concrete, asphalt, or gravel parking lots and roads.
13. “Land Development Activity” means the act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.
14. “Land Disturbing Activity” means any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City’s jurisdiction, including construction, clearing & grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean:
 - (a) Minor land disturbance activities such as home gardens and an individual’s home landscaping, repairs, and maintenance work, which will not result in sediments entering the storm water system.
 - (b) Additions or modifications to existing single family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
 - (c) Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
 - (d) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
 - (e) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City’s requirements as soon as possible.

15. “Landowner” means any person holding title to or having a divided or undivided interest in land.
16. “Natural Water” means a river, stream, pond, channel or ditch.
17. “Noncompliance Fee” means the administrative penalty, or fee, which may be assessed to a Landowner, Developer, or their Contractor(s) for noncompliance with the provisions and/or conditions of an approved storm water plan and/or permit or the violation of any other provisions contained in this storm water ordinance.
18. “Owner or Occupant” means any person owning or using a lot, parcel of land, or premises connected to and discharging Storm Water into the storm water system of the City, and who pays for and is legally responsible for the payment of storm water rates or charges made against the lot, parcel of land, building or premises, if connected to the Storm Water system or who would pay or be legally responsible for such payment.
19. “Person” means any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.
20. “Prohibited Discharge” means a non-storm water discharge into the storm water system or a natural water, including but not limited to:
 - (a) Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
 - (b) The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum-based products (gasoline, oil, fuels, solvents, paints, etc.).
 - (c) Erosion and sediment originating from a property and deposited onto City streets, private properties or into the storm water conveyance system, including those areas not specifically covered under an approved Storm Water Management Plan or Storm Water Permit.
 - (d) Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic immediately after it is deposited on the street.

(e) For the purposes of this ordinance, Prohibited Discharges do not include the following, unless information is available to indicate otherwise:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground water
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- De-chlorinated swimming pool discharges
- Street wash water

21. “Regional Flood” a.k.a. Base Flood or 100-year flood.
22. “Runoff” means the rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.
23. “Sediment” means solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.
24. “Sediment Control” means the methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
25. “Site” means the entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the storm water plan or permit application.
26. “Stabilize” means to make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures.

27. “Storm Sewer” means a pipe or conduit for carrying storm waters, surface runoff, and drainage, excluding sewage and industrial wastes.
28. “Storm Water” means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage. Storm water does not include construction site dewatering.
29. “Storm Water Detention” means temporary storage of storm water runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.
30. “Storm Water Management” means the planned set of public policies and activities undertaken to regulate runoff and reduce erosion and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Storm water management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.
31. “Storm Water Management Policy” means specific guidance to carry out drainage and storm water management policies.
32. “Storm Water Management Plan” means a document containing the requirements identified by the City, that when implemented will provide solutions to storm water management problems that may occur as a result of the proposed development or land disturbing activity. A Storm Water Management Permit is not required as part of but may be included in a Storm Water Management Plan. The plan that a designer formulates to manage urban storm water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.
33. “Storm Water Management System” means physical facilities that collect, store, convey, and treat storm water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

34. “Storm Water Retention” means storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).
35. “Structure” means anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.
36. “Subdivision” means any tract of land divided into building lots for private, public, commercial, industrial, etc. development for the purpose of sale, rent, or lease, including planned unit development.
37. “Temporary Protection” means a short-term method employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.
38. “Undeveloped Land” means land that in its current state has not been impacted by significant land disturbance activities, annexed into the City or subdivided into multiple ownership lots and is typically zoned agricultural.
39. “Violation” means the willful or negligent act of noncompliance with the conditions attached to an approved storm water plan and/or permit, or any other provisions contained in this ordinance, subject to enforcement and penalty or noncompliance fees.
40. “Watercourse” means the natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

9-0402. **STORM WATER MANAGEMENT PLAN.** A written Storm Water Management Plan Application shall be filed with the City Public Works Director, or his/her designee, as required by this Chapter and by the City’s Storm Water Management Policy.

- A. Application Fee. A fee, as adopted by the City Council and set forth in the Storm Water Management Policy, must accompany all applications for Storm Water Management Plan approval.
- B. Operation, Maintenance and Inspection. All Storm Water Management Systems shall be designed to minimize the need for maintenance, to provide easy vehicle and personnel access for maintenance purposes, and to be structurally sound (per the Standards). All Storm Water Management Systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in Storm Water Runoff. The City Public Works Director, or his/her designee, may inspect all public and private Storm Water Management Systems at

any time. The City Public Works Director, or his/her designee, shall retain enforcement powers for assuring adequate operation and maintenance activities through plan conditions, penalties, noncompliance orders and fees.

The Public Works Director may inspect all public and private storm water management systems at any time. Inspection records will be kept on file at the Public Works office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management system for inspection and maintenance purposes for the City. The applicant shall promptly allow the City and their authorized representatives, upon presentation of credentials to:

- a. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections, or surveys.
- b. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations.
- c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
- d. Inspect the storm water pollution control measures.
- e. Sample and monitor any items or activities pertaining to storm water pollution control measures.

Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be the responsibility of the applicant.

- C. Easements. Easements may be required as conditions to the issuance of a Storm Water Management Plan approval. If a Storm Water Management Plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water.
- D. Plan Applicability. A Storm Water Management Plan approval issued under this chapter runs with the land and is a condition of plat or development approval. Any Landowner or subsequent Landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision, or modification of the Plan. Failure to comply with this Plan shall constitute a violation and subject the Developer, and/or Landowner to the enforcement provisions, penalties, and noncompliance fees.
- E. Plan Amendment. Storm Water Management Plans may be amended only by a written request submitted to the City Public Works Director, or his/her designee,.

This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after Plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. Provided, the City Public Works Director, or his/her designee, may waive all or part of the fees if the amendment is minor.

9-0403. SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS.

- A. Storm Water Violations and Reporting. The City Public Works Director, or his/her designee, shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection, or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name address and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the determination of the City Public Works Director, or his/her designee, and any enforcement action taken and/or any noncompliance fees levied.
- B. Emergency Suspension. The City Public Works Director, or his/her designee, may for cause order the suspension of a Storm Water Management Plan when the City Public Works Director, or his/her designee, determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Public Works Director, or his/her designee, may reinstate the Storm Water Management Plan upon proof of compliance with all plan conditions. The City Public Works Director, or his/her designee, may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) are obtained.
- C. Non-Emergency Revocation. A Storm Water Management Plan may be revoked following notice. An opportunity for a hearing will be provided. The City Public Works Director, or his/her designee, may revoke a plan for cause, including but not limited to:
1. Violation of any terms or conditions of the applicable plan;
 2. False statements on any required reports or applications;

3. Obtaining a plan by misrepresentation or failure to disclose fully all relevant facts; or
4. Any other violation of this chapter or related ordinance.

The City Public Works Director, or his/her designee, may revoke a Storm Water Management Plan and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided. Under a revoked plan no additional permit approvals (i.e., building, excavation, etc.) shall be issued for any properties within the area included within the plan boundaries until approved by the City Public Works Director, or his/her designee,. In addition, the City may deny new permits (i.e., storm water, building, excavation, etc.) to the Permittee or Landowner in violation for projects in other locations until current permits are brought into compliance

- D. Notification. Whenever the City Public Works Director, or his/her designee, finds that any person has violated or is violating this chapter, Storm Water Management Plan and/or its conditions, or any prohibition, limitation or requirement contained herein, the City Public Works Director, or his/her designee, shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the City Public Works Director, or his/her designee, due to the nature of the violation, a plan satisfactory to the Public Works Director for correction thereof must be submitted to the City Public Works Director, or his/her designee,. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the City Public Works Director, or his/her designee, may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the City Public Works Director, or his/her designee,, that person may, within 15 days of the order of the City Public Works Director, or his/her designee,, request a hearing.
- E. Hearing. If a person requests a hearing to contest the order of the City Public Works Director, or his/her designee,, a notice of hearing must be served on the person appealing the order, specifying the time and place of the hearing to be held regarding the order of the City Public Works Director, or his/her designee,, and directing the person appealing to show cause why the order of the City Public Works Director, or his/her designee, should not be upheld. Unless the Public Works Director has suspended the plan and ordered work to stop due to emergency, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the City Auditor, or his/her designee, who shall then shall either, uphold, modify, or rescind the order of the City Public Works Director, or his/her designee,. An appeal of the decision may be taken to the District Court according to law. Provided, that if the City Auditor or his/her designee upholds an order stopping work, such work suspension shall not be stayed because of the appeal to the District Court.

- F. Legal Action. The discharge of deposited or eroded materials onto public rights-of-way or public storm sewer systems within the City of Kindred shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the Landowner's expense based on the properties from which they originated. The Landowner shall have twelve (12) hours after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the City Public Works Director's, or his/her designee's, direction and any associated costs shall be the responsibility of the Landowner and, if unpaid within 90 days, may be recommended for assessment action by the City Council against property of the violator.

If any person commences any land disturbing activities which result in increased Storm Water quantity or Storm Water quality degradation into the City's Storm Water Management System contrary to the provisions of this chapter, federal or state requirements or any order of the City Public Works Director, or his/her designee,, the City Attorney may, commence action for appropriate legal and/or equitable relief including administrative or criminal penalties.

9-0404. **VIOLATIONS AND ENFORCEMENT.**

- A. Responsibility for Enforcement. The Public Works Director is authorized to enforce this chapter.
- B. Violations. All violations of this chapter and of law will be subject to the remedies and penalties provided in this chapter, the Kindred Municipal Code and state law, where applicable. The city includes the extraterritorial zoning jurisdiction of the city.
- C. Enforcement Procedures. The following enforcement procedures shall apply to violations of this chapter:
1. Non-Emergency matters – In the case of violations of this chapter that do not constitute an emergency, the Public Works Director may:
 - a. Issue a notice of violation
 - b. Issue an administrative order; or
 - c. Issue an administrative order with fine.

All notices and orders shall be issued to the property owner and to any other person who is alleged to be in violation of this chapter or of the terms of any permit or condition granted and to any applicant for any relevant permit.

2. Emergency matters – In the case of violations of this chapter that do constitute an emergency situation, the city shall use all remedies, penalties and enforcement powers available under this chapter without prior notice, but the Public Works Director must send notice simultaneously with beginning enforcement action to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit and

must advise persons affected by the action taken that a hearing will be held within seven days from the date of such action. At the hearing, the City Council will determine whether there were appropriate grounds for the action taken, and whether the action taken should continue.

3. Administrative compliance orders - procedure - Persons receiving an administrative order or an administrative order with fee shall have 12 hours, or such longer period as the Public Works Director allows, to correct the violation. If the violation is not corrected within the required time frame, the Public Works Director and city attorney shall use all penalties, remedies, and enforcement powers available under this chapter.
4. Administrative compliance order with fee/administrative complaint or citation - procedure – The Public Works Director shall include in the administrative complaint the amount of administrative fee to be paid by the person against whom the citation or complaint is issued. The authorized city employee or representative issuing the administrative citation need not issue an administrative order before issuing an administrative complaint.
5. Order to show cause – hearing – In the event the Public Works Director has issued an administrative order or an administrative order with fee, if the violation is not corrected by timely compliance, the Public Works Director may order any person who causes or allows an unauthorized discharge to show cause before the City Council why sewer service should not be shut off. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the City Council regarding the violation, and directing the offending party to show cause before said board why an order should not be made directing the shut off service. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing.

D. Remedies and Enforcement Powers. The city shall have the following remedies and enforcement powers:

1. Withhold permits – The city may deny or withhold all permits, certificates, or other forms of authorization as to any applicant for a permit. Instead of withholding or denying an authorization, the city may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The city may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.

2. Revoke permits – A permit may be revoked when the Public Works Director determines that:
 - a. There is departure from the plans, specifications, or conditions as required under terms of a permit or approved plan;
 - b. The plans, specifications, or conditions were obtained by false representation or was issued by mistake; or
 - c. Any of the provisions of this chapter are being violated as to the project under the permit.
3. Revoke plan or other approval – When a violation of this chapter involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Public Works Director or City Council charged with enforcement of the provisions of this chapter may, upon notice to the applicant and other known parties in interest (including any holders of building or other permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the Public Works Director or City Council may reasonably impose.
4. Injunctive relief – The city may seek an injunction or other equitable relief in court to stop any violation of this chapter.
5. Abatement – The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
6. Restitution – The city may seek an order requiring restitution as a condition to be met by a person before any plan is restored, before the person is allowed to lawfully discharge into the sewer system, or before other action may be taken by the person as determined by an appropriate order.
7. Costs of damage – Any person violating any of the provisions of this chapter or who initiates an activity causes a deposit, obstruction, or damage or other impairment to the city’s storm water management system is liable to the city for any expense, loss, or damage caused by the violation or the discharge. The city may bill the person violating this chapter the costs of any cleaning, repair or replacement work caused by the violation of storm water discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator’s property.
8. City attorney’s fees and costs – In addition to the fees and penalties provided herein, the city may recover reasonable attorney’s fees, court costs, court reporter’s fees, and other expenses of litigation by appropriate action

against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.

9. Other remedies – The city shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this chapter or related provisions.
 10. Remedies cumulative – The remedies and enforcement powers established in this chapter are cumulative. The City Council may hold a single hearing to consider evidence and render decisions on appeals from administrative citations or complaints, orders to show cause or other administrative proceedings involving one or more alleged violators stemming from the same occurrence or series of occurrences.
- E. Enforcement – non-compliance and re-inspection fees. Any person who is found to have violated an order of the Public Works Director made in accordance with this chapter, or who has failed to comply with any provision of this chapter and the orders, rules, regulations, plans, and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. A schedule for noncompliance and re-inspection fees, which may be imposed for violation of this chapter, may be approved by the city council.
- F. Other Powers. In addition to the enforcement powers specified in this chapter, the city may exercise any and all enforcement powers granted to them by North Dakota law.
- G. Continuation. Nothing in this chapter shall prohibit the continuation of previous enforcement actions undertaken by the city pursuant to previous and valid ordinances and laws.
- H. Power and Authority of Inspectors – Right of Entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the engineers or inspections officer has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the engineer or inspections officer is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the engineer or inspections officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the engineer shall have recourse to the remedies provided by law to secure entry.
- I. Savings Clause – conflict. In the event that any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected

and shall continue in full force and effect; all ordinances and parts of ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.