

CHAPTER FIFTEEN

WATER AND SEWERS

ARTICLE 1 Utility Established

- 15.0101 Oil, Water and Sewer Utility Created
- 15.0102 Scope of Utility
- 15.0103 Service Charges-Use of
- 15.0104 Policy on Improvements-Extensions
- 15.0105 Utility Fund-Separate Accounts
- 15.0106 Provisions for Financing Capital Improvements
- 15.0107 Agreements with Bond and Warrant Purchasers

ARTICLE 2 Water Service

- 15.0201 Water System
- 15.0202 Public Work Superintendent
- 15.0203 Water Service-Application for
- 15.0204 Water Service-Construction of Maintenance of by Owner
- 15.0205 Water Service-to Property Not Previously Assessed
- 15.0206 Water Service-to Property with Delinquent Assessments
- 15.0207 Water Service-Who May Connect
- 15.0208 Water Service-Meter Required
- 15.0209 Water Service
- 15.0210 Water Service-Meter Required: Location, Seals
- 15.0211 Water Service- Meter Deposits
- 15.0212 Water Service-Services-Installation of
- 15.0213 Curb Stop Valves
- 15.0214 Check Valves
- 15.0215 Regulations Governing Service
- 15.0216 Payment of the City Utility Billing
- 15.0217 Rates and Charges-Liability for
- 15.0217.1 Resolution: New Rates

15.0217.2 Resolution: Street Light

ARTICLE 3 Sewer Service

15.0301 Application for

15.0302 Rates

15.0303 Charges

15.0303.1 Resolution: Lift Station Fee

15.0303.2 Resolution: Base Rate

15.0304 Installation of Services

15.0305 Effective Date of Rates and Charges

ARTICLE 4 Improvement Districts

15.0401 Water and Sewer Improvement District in New City Additions

ARTICLE 5 Water Ordinance

15.0501

15.0502

15.0503

15.0504

15.0505

15.0506

15.0507

15.0508

15.0509

15.0510

Article 1 Utility Established

15.0101 Oil, 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.

15. 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.

15. 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 produce 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 improvement, 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 current principal interest and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's Capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other city functions, subject to the limitations now or hereafter prescribed by law.

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

15.0104 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 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 there from by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains, and other mains are referred to as "trunk" mains.
2. Where a trunk main is installed, the governing body upon advice of the City Engineer shall estimate the probable cost of construction of a lateral main at the same time and place, and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.
3. Twenty per cent of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.
4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefited thereby, in amounts proportionate to and not exceeding the benefits determined to be derived there from 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 improvement, extension or addition 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 benefited 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 and collect a special charge for the connection of such property with the utility system in such amount as shall be required to pay its just share of the assessable cost of such improvement.

15.0105 Utility Fund-- Separate Accounts

All moneys received by the city in respect of the services, facilities, products and by-products furnished and made available by said utility, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money receipts and returns received from any investments of such earnings, shall be paid into the treasury of the city and kept in a special fund which shall be permanently maintained on the books of the city, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund, in the records of which fund all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safe-keeping secured like other city funds.

Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below, and such revenues shall be administered and accounted for as follows:

1. **Operation and Maintenance Account.** There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves of surplus funds.

2. **Principal and Interest Account.** The Principal and Interest Account of the fund, created by resolution adopted heretofore shall continue to be maintained as provided in that resolution until the payment in full of the improvement warrants issued against said fund.

3. **Revenue Bond Account.** The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding twelve months period upon all revenue bonds of the city heretofore or hereafter issued and made payable from said accounts.

After said reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding twelve months. Moneys in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and said reserve shall be used for such purpose only when other moneys in the account are sufficient.

All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility as hereinbefore defined without preference or priority of one bond over any other; provided that if at any time the moneys in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of moneys from the other accounts described below, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for payment of bonds maturing on the same date shall be prorated equally among such bonds.

4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in accordance with the provisions of 40-22-15 and 40-22-16 of the North Dakota Century Code of 1943. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessment collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements of said improvement district funds shall be credited and paid into the Improvement Warrant Account out of the net revenues remaining from time to time after provision for the current requirements of the Revenue Bond Account, and the lien and charge on said net revenues in favor of improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the Revenue Bond Account. In the event that moneys in the Improvement Warrant Account shall be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described below, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn. On such district funds and any remainder shall be applied in payment of matured principal of such warrants in order of the maturity dates thereof. As among warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

5. Replacement and Depreciation Account. Finally, there shall be maintained a Replacement and Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become pre-payable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto.

Any moneys in said account determined to be surplus to the immediate requirements therefore may be invested or may be transferred to other city funds in the discretion of the Board, in the manner and subject to the limitations set forth in section 40-33-12 of the North Dakota Century Code; and any acts amendatory thereof or supplemental thereto.

6. **Moneys on Hand.** The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.

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

15.106 Provisions for Financing Capital Improvements

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

1. For the purpose of this section, whenever the net revenues of the utility herein above appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants; and the portion of such costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.

2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in section 15. Oil C5 (3) hereof, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to 125% of the average annual principal and interest payments due on all bonds payable from the Revenue Bond Account which are then outstanding or then to be issued, plus such percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all such revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for water and sewerage service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such year, based upon the actual quantities of service furnished to each class of customers and the actual expenses of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed 125% of the net revenues actually received during such year.

3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become pre-payable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the city shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond Account which have matured and for the payment of which the moneys in the Revenue Bond Account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable there from, but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefore.

4. The city also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in chapter 40-27 of the North Dakota Century Code and acts amendatory thereof and supplemental thereto. The lien and charge of such refunding warrants on the net revenues appropriated to the Improvement Warrant Account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.

5. Nothing herein shall be deemed to affect the Obligation of the City, under the laws of the State of North Dakota, to levy ad valorem taxes upon all taxable property within its corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the city that the amounts of any deficiency tax levies so made shall be restored to the general funds of the city out of any surplus net revenues thereafter received, over and above the requirements of the several accounts of the Water and Sewer Utility Fund as stated in section 15.0105 hereof.

6. Except as hereinbefore authorized, no obligation of any kind shall be issued and made payable from said net revenues unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the Revenue Bond Account and the Improvement Warrant Account.

15.0107 Agreements with Bond and Warrant Purchasers

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

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results, and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.

2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competition as to the services thereby provided and in good and efficient operating condition.

3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in section 15.0105 hereof, and will revise such schedules in such manner and whenever and as often as needed to perform this covenant.

4. Under each such schedule, the city shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the city or any of its departments by the utility.

5. It will at all times maintain books of account adequate to show all receipts and disbursements of the city respecting the utility, and application of such receipts to the purposes of the several accounts described in section 15.0105 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time, and that it will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.

6. It will cause the annual financial statement of the city required by the provisions of section 40-16-05 of the North Dakota Century Code to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.

7. Upon written demand of the holder of 20% or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.

8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury or property damage which is or may become a charge against the revenues of the utility, and will cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the city and the holders of obligations of the utility, and the expense of all such insurance and bonds to be accounted for as an operating cost of the utility, and the city will use the proceeds of any such insurance and bonds to restore the loss of damage compensated thereby.

9.The city and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed or the ordinances and resolutions of the city, in force on the date upon which any such obligations are issued, and all provisions of the constitution and laws and of such ordinances and resolutions which provide security for the holders of bonds issued hereunder are acknowledged to be a part of the city's contract with the holders from time to time of such obligations; provided that nothing herein shall be deemed to preclude the city from modifying the policies set forth in section 15.0104 hereof with reference to any improvements constructed and financed after the effective date of such modification.

10.The holders of 20% or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time outstanding shall be privileged, and are hereby empowered, to institute and maintain, in behalf of the holders of all outstanding obligations of the same issue, any suit or proceedings at law or in equity for the protection and enforcement of any covenant, agreement, or stipulation herein provided to be performed or observed by the city or its governing body or any of its officers, whether or not any of such obligations are then in default as to principal and interest, and each and all of the rights and remedies specified and mentioned in sections 4035-15 and 40-35-19, inclusive, of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations .

Article 2 Water Service: Amended -01/09/2009

15.0201 Water System

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

15.0202 Public Works Superintendent

A superintendent shall be appointed by the governing board. If this person is a part time employee, and if this person is also a city employee in some other capacity, only his services respecting the water system are an operating charge of the system.

It is the duty of the Water Superintendent to exercise control and management of the operation of the waterworks system. This person has power and authority to employ, subject to the approval of the governing body, all engineers, filter plant operators, meter readers, laborers and other employees, as may be necessary to the operation of the waterworks system. All such employees are subject to this person's orders and directions, and this person is responsible for their acts.

This person has power and authority to purchase materials, supplies, and repairs for the Water Works System, with the approval of the governing board of the city, as are reasonably necessary for the operation of the system. This person 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. This person is subject to the supervision and direction of the governing board. This person shall perform other duties and have other powers and authority as are hereinafter provided.

15.0203 Water Service-Application for

Any party desiring water service from the utility for premises not heretofore connected with the system shall apply for a connection on a form provided by the municipality. The application must state an exact description of the premises to be served. The application shall be filed with the City Auditor together with all applicable connection charges/fees.

The fee may be set from time to time by a resolution passed by the Hazen City Commission.

Payment must be in full payment for the privilege of installing 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 the privilege of installing water service curb stop valves, installation of water meters, and supervision of the customer's connection with the system.

15.0204 Water Service-Construction of-Maintenance of by Owner

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

If an existing service line, from the water main to the property is not to be used by the property owner, and the service line develops a leak, this service line will be removed and capped at the main, at the owner's expense. The modification/repair shall be done within 14 days of the leak detection.

All services must be constructed by licensed plumbers 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, must likewise be maintained by the owner. Services means, the service line running from the curb stop valve to the owner's premises.

15.0205 Water Service-to Property not Previously Assessed

No permit may be issued for the making of any connection between any water distribution system and any property which has not previously been benefited by existing water lines, or whenever the owners of such property have not been assessed for such water facilities, unless and until such person has paid or made a written agreement with the city to pay in monthly installments within a maximum of 5 years an amount of money as may be therefore determined by the governing body.

The amount will be based upon the area served and benefit resulting to the property involved. Within thirty (30) days from the date of receipt of an application, the governing body must determine the amount of money required to be paid before a connection is made and it must advise the applicant property owner of the determination. All moneys paid and received pursuant to the provisions of this section must be placed in the water utility fund and must be expended in accordance with the purpose of the fund.

15.0206 Water Service-to Property with Delinquent Assessments

No permit may be issued for a connection between the water distribution system of the city and property on which special assessments are delinquent.

15.0207 Water Service-who may Connect

No person may make a connection to the city water distribution system without the authorization of the Public Works Superintendent, and under the supervision of the city and in compliance of North Dakota State Plumbing Code.

15.0208 Water Service-Meter Required

It is unlawful for any person to use water from any premises without the consent of the owner, or to use water from the municipal water system except when drawn through a meter installed by the municipality.

15.0209 Water Service

Each premises or unit must have a separate and distinct water service connection, and must have its own separate meter and separate service curb stop valve.

15.0210 Water Service-Meter Required-Location, Seals: Amended 11/7/2022

Meters must be firmly and substantially set in a workmanlike manner in a convenient and readily accessible location for reading and inspection. No connection or withdrawal of water by the consumer for any purpose is permitted ahead of the city meter, or between the water meter and the water main.

The consumer cannot, after original installation of a water meter, make any alterations or additions which will interfere with the repair, maintenance, reading, or operation of the meter.

Water meters must at all times be sealed and the seals may not be broken. Water meters may be removed only by authorized employees of the waterworks department.

The standard meter is a 5/8 inch. Any meter larger than 5/8 inch will be reviewed on a case by case basis. A 3/4 inch meter may be granted if the property has a lawn sprinkler system already installed. All meters 2 inch or larger must be compound meters. The city will provide the water meters at the expense of the property owner.

Seasonal installation/removal of water meters will be the responsibility of the property owner and work must be completed by a licensed plumber. The property owner is also responsible to notify the city when a meter is installed/removed.

15.0211 Water Service-Meter Deposits

There is hereby established a water meter cost requirement, payable with the application for water service by the property owner.

There is also hereby established a water meter cost payable with the application for water service by any contractor or home builder relative to new construction, or other situations where a meter has not previously been issued.

Water meter cost is the actual cost or in an amount as established from time to time by resolution of the Board of City Commissioners.

15.0212 Water Service-Services Installation of

All water service lines and curb stop valves must be installed to the current city standards and under direction of the city.

15.0213 Curb Stop Valves

There must be a curb stop valve in every service line attached to the water mains, the same to be placed as near as possible the property line, but within the city street right of way or utility easement. Curb stop valves must be enclosed in a substantial iron case. There must be one or more stops attached to every supply pipe at some point between the curb stop valve and the meter.

15.0214 Check Valves

Check valves/backflow preventers are required to be installed to prevent contamination to the city's water distribution system.

15.0215 Regulations Governing Service

The following rules and regulations are considered a part of the contract with every person who takes water supplied by the city through the city water distribution system and every person who takes water is considered as having expressed their agreement to be bound thereby.

- 1. Turning off Water: Who Authorized:** No person may turn off or turn on the water at the service curb stop valve to any premises without first obtaining permission from the water department.
- 2. City Reserves Right to Turn off Water, Notice:** In the case of making repairs or constructing new work, the city reserves the right to turn off the water at once and keep it turned off as long as may be necessary to accomplish such purposes. The city will make an effort to give previous notice to affected consumers.
- 3. Non-liability of City for Deficient Supply or Quality of Water:** It is expressly provided that the city is not liable to any consumer of water for the amount supplied or the quality thereof, whether by turning off the same to make repairs or to construct new work or for any other cause whatsoever.
- 4. Fees for Turning off and on Water Services:** Fees for starting/stopping water

service at the curb stop will be \$25.00/instance, when performed at the property owner's request, as established by the Board of City Commissioners. (Amended Eff. 1/1/2021)

5. Entrance and Access to Premises by Waterworks Employees: Authorized water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant may refuse employees access. The water department has the right to enter any premises and remove the meter for the purpose of examination and testing after first notifying the owner or occupant, and to turn off the water to premises where free access is provided.

6. Fire Hydrants, who may open: No person except city employees and fire department members, in the performance of their official duties, may open or cause to be opened any fire hydrant.

15.0216 Payment of the City Utility Billing: Amended 01/20/2017, Amended 1/1/2021, Amended 11/7/2022

Rates and charges will be in amounts as are established from time to time by resolution of the Board of City Commissioners.

The city water meters will be read on or before the 20th of each month.

Billing will be mailed out to the customer on or before the 30th of each month.

Payment is due at the Hazen City office on or before the 10th of the following month.

Payments not received on or before the 10th of the month will be considered as LATE. A LATE FEE OF \$20.00 WILL BE APPLIED TO ALL LATE ACCOUNTS.

A delinquent notice will be mailed to the customer with a late account. If payment is not received by the last day of the month; the customer account will be in default.

When the customer account is in default, the city, at its sole discretion, may suspend water service. The customer account will remain in default until all utility payments owed the city are paid in full. Once the account is brought current, the service will be re-established the following business day.

A reinstatement fee of \$60.00 will be charged for any service disconnected for nonpayment.

All utility service fees, reinstatement fees, and penalties must be paid prior to reinstatement.

(When circumstances warrant, if reinstatement is requested after hours for the Public Works Department, a minimum charge of (2) two hours overtime wages will also be applied to the customer account, in addition to all other fees and penalties.)

15.0217 Rates and Charges-Liability for: Amended 01/01/2009

Owners of premises where water is supplied must notify the water department in case any tenant moves from the premises, prior to the tenant moving. In case the tenant moves from the premises to other premises in the city, and is there supplied with water, the tenant is liable for the water used at the former residence up to the time of moving, and the water department shall enforce the collection of the water bill, as provided for in the case of non-payment of other water bills. If the tenant moves away from Hazen or moves to some place within Hazen where the tenant is not directly supplied by Hazen's water distribution system with water and refuses or neglects to pay delinquent bills within fifteen (15) days after notice thereof, then and in that event the owner of the property for which the bill was rendered is liable for the

bill, and the water department may enforce collection of the bill, as provided for in the case of non-payment of other water bills.

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

15.0217.1 Resolution: Added 12/01/2008

Whereas, the City of Hazen establishes the rates for city utility services by resolution; and

Whereas, the City of Hazen formerly established certain water and sewer rates by ordinance, but has amended such ordinances to establish rates by resolution of the governing board; and

Whereas, it is necessary to reinstate and amend those rates that were formerly established by ordinance; and

Whereas, the City of Hazen has determined that the following rate schedule is necessary to address the costs related to the operation of the municipal water system;

(New Rates Shown in Bold)

1. **Water Meter Maintenance Fee (formerly, "Meter Rent"):** Increase the monthly fees as follows:

- a. 5/8" Pmm from \$0.50 to \$1.00
- b. 3/4" Pmm from \$1.20 to \$1.50
- c. 1" Pmm from \$1.80 to \$2.00
- d. 2" Compound from \$5.00 to \$17.50
- e. 3" Compound \$22.00 (new fee)
- f. 4" Compound \$35.50 (new fee)

2. **Water Main Distribution Fee (formerly "Maintenance Fee"):** Remain at \$2.00/month

3. **Late Fee:** Reduce from 2% for payments up to 45 days late to 1% of the amount that is 60 days or more late. After 60 days, water service may be discontinued by the city. A reinstatement fee of \$50.00 will be charged for any service discontinued for non-payment. All fees must be paid prior to reinstatement.

4. **Utility Deposit:** Increase the deposit from \$50.00 to \$125.00 for each new service. The deposit will be held until the customer has established prompt payment for 24 consecutive months, after which time, the customer may request a return of the deposit. Requests will not be denied if all payments are current. If service is discontinued while a deposit is being held, the city may apply the deposit towards any outstanding fees owed the city before returning any surplus to the customer.

Therefore, be it resolved that the City of Hazen, adjusts the rates related to the operation of the municipal water system as set forth above effective January 1, 2009, and continuing until modified by further action of the Hazen City Commission. All municipal water system rates in effect at the time this resolution is adopted will remain in effect until January 1, 2009.

15.0217.2 Resolution: Added 08/29/2006 Amended 1/20/2021

Whereas, the City of Hazen establishes the rates for certain fees by resolution; and

Whereas, city street lighting costs have increased and it is necessary to recover some of those costs by adding a fee to city utility services as follows:

Effective January 20, 2021, a streetlight fee of \$3.00 per month will be added to each residential city utility bill and a streetlight fee of \$7.50 per month will be added to each business city utility bill;

Therefore, be it resolved that the City of Hazen, adjusts rates for streetlight fees as shown above effective January 20, 2021, and continuing until modified by further action of the Hazen City Commission.

15.0217.2 Resolution: Added 04/16/12 – Amended 1/20/2021

Whereas, the City of Hazen sets the rates for city utility services by resolution; and

Whereas, the City of Hazen will soon be purchasing its water from the Southwest Water Authority (Authority) as required by a contract with the authority and must adjust its rates to meet its new and existing contractual obligations: and Whereas, the City of Hazen has determined that the following rate changes are necessary to address the adjusted costs;

(New Rates Shown in Bold)

1. Water Rate: Water Rate based on 15.0217.2 (1)
2. Base Water Rate: Increase the Base Water Rate to **\$ 12/billing cycle**.

Therefore, be it resolved that the City of Hazen, adjusts the rates for water consumption as shown above effective May 20, 2012, and continuing until modified by further action of the Hazen City Commission.

15.0217.2 Resolution: Adopted 12/17/2018

Whereas, the City of Hazen sets the rates for city utility services by resolution; and

Whereas, the City of Hazen purchases its water from the Southwest Water Authority (Authority) as required by a contract with the authority and must adjust its rates to meet its new and existing contractual obligations: and

Whereas, the City of Hazen has determined that the following rate changes are necessary to address the adjusted costs;

(New Rates Shown in Bold)

1. Water Rate: Increase the consumption charge to a rate, indexed to the rates charged by Southwest Water Authority (SWWA), plus \$1.50/1000 gallons. (Received notice SWWA rate for 2019 is \$5.23/1000 gallons.) The City of Hazen rate shall be **\$6.73/1000** gallons.
2. Bulk Water Rate: **\$15/1000** gallons for water directly from hydrant.

Therefore, be it resolved that the City of Hazen, adjusts rates for water consumption as shown above effective January 1, 2019, and continuing until modified by further action of the Hazen City Commission.

Article 3 Sewer Service

15. 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. All applications shall be accompanied by a fee of \$ none, payable to the city for the connection charge.

15. 0302 Rates

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

15. 0303 Charges

The Water Department is hereby authorized to add the sewer charges provided for herein to its charge for water services and waste collections and submit the same on a bill in connection with said water service bills. The Water Department shall be authorized to discontinue all utility services if the entire bill shall not be paid, including the bill for sewer charges. In all places where water service is provided the monthly charges set forth shall be added to and collected as a part of the water bill and collected by the Water Department of the city.

Said sums shall 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.

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

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

15.0303.1 RESOLUTION: Added 04/2/2007

Whereas, the City of Hazen sets the rates for city utility services by resolution; and

Whereas, the City of Hazen has determined that expenses related to the city sewer system have increased due to expenses; and increased operation and maintenance

Whereas, the City of Hazen has determined that the following rate change is necessary to address the increased costs so as to keep the utility self-supporting and self-perpetuating;

There shall be billed a monthly lift station maintenance reserve fund billing for each city supplied water service in the sum of \$1.00 per billing cycle.

Therefore, be it resolved that the City of Hazen, adjusts its rate for a lift station reserve fund as set forth above effective June 1, 2007, and continuing until modified by further action of the Hazen City Commission.

15.0303.2 Resolution: Added 04/02/2007

Whereas, the City of Hazen sets the rates for city utility services by resolution; and

Whereas, the City of Hazen has determined that expenses related to the city lagoon operation have

increased due to increased operation and maintenance expenses; and

Whereas, the City of Hazen has determined that the following rate change is necessary to address the increased costs;

The monthly base sewer rate billed to each water service will be increased from \$5.00 per billing cycle to \$6.00.

Therefore, be it resolved that the City of Hazen, adjusts its rate for lagoon fee as set forth above effective June 1, 2007, and continuing until modified by further action of the Hazen City Commission.

15. 0304 Installation of Services

All sewer tops, 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.

15. 0305 Effective Date of Rates and Charges

The rates and charges provided in this chapter shall be effective on January 1, 1978. Present rates and charges shall apply until such date.

Article 4 Improvement Districts

15.0401 Water and Sewer Improvement District in New City Additions: Amended 11/23/81

Special assessment districts, in the manner provided by law, may be created in any new addition to the city for the purpose of constructing or improving any sewer or water installation therein or connections with the existing sewer and water mains to the city; provided, that the Board of City Commissioners, prior to the creation of such special assessment district, and as a specific condition of the creation thereof, may require that the owner or developer of such new addition or the primary owner or developer thereof shall deposit 30 percent of the total project's cost as security upon such improvement district in a financial institution of the City of Hazen's choice, to be held by the City of Hazen according to the following terms and Contingencies:

1. Such deposit shall be in the name of the City of Hazen, and deposited in an institution wherein such deposits are guaranteed by an agency of the United States government.
2. Interest earned by such deposit shall be credited to such account as accrued.
3. Such deposit shall be held by the City of Hazen until 50 percent of the special assessments for such project have been paid in full, or until default in the payment of special assessments due, (hereinafter defined) whichever first occurs.
4. Default in the payment of special assessments due shall be deemed to occur when receipts of special assessments, together with the balance of the principal and interest account covering such project are insufficient to pay the current year's principal and interest due, as defined within section 40-26-08, North Dakota Century Code.
5. Upon default as disclosed above, the special account as herein defined shall be utilized by the City of Hazen to the extent necessary to pay such maturing warrants or bonds plus interest on such project, and any balance remaining shall be retained in such account to be so applied in the event of a subsequent default.
6. That upon receipt of 50 percent of the total special assessments due upon such project, the balance of the account herein described shall be returned to the developers,

or their successors in interest or assignees.

For the purpose of meeting the requirements of this section, a letter of credit from a lending institution or similar assurance equal to 30 percent of the estimated costs shall be sufficient to proceed with the creation of such special assessment district, unless such letter of credit or similar assurance is waived by the Board of City Commissioners.

Article 5 Water Ordinance: Added 03/19/07

AN ORDINANCE AUTHORIZING THE CITY OF HAZEN, ND TO CONTRACT FOR THE PURCHASE OF WATER FROM SOUTHWEST WATER AUTHORITY AND PROVIDING FOR RATES AND CHARGES SUFFICIENT TO PAY FOR THE EQUIPMENT, MAINTENANCE, AND WATER PURCHASED UNDER THE CONTRACT.

BE IT ORDAINED by the Hazen City Commission of the City of Hazen, North Dakota:

15.0501

It is hereby declared that the city owns a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and that the water used in the system is unsuitable and leads to high maintenance system and equipment costs.

15.0502

It is hereby declared that Southwest Water Authority is a political subdivision and is able and willing to furnish water to the city for its water system in accordance with a WATER PURCHASE CONTRACT which may be developed at a future date for said authority undertaking to furnish potable water meeting applicable purity standards of the North Dakota State Department of Health in quantities as required by the city and at rates agreeable to the city.

15.0503

It is hereby declared that the City of Hazen, as a home rule city and acting under its Home Rule Charter, is authorized to provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare and to contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.

15.0504

It is noted that North Dakota Century Code section 40-33-16 requires that before a city may bind itself to a contract with others to provide water to the city, the ordinance creating the contract must be submitted to its voters for approval. However, the North Dakota Attorney General has declared that a home rule city with the powers of North Dakota Century Code section 40-05. 1-06, as does the City of Hazen, may specifically reject the voter approval requirement and outline a means of financing the project. See Attorney General Letter Opinion 2005-L-43 (December 2005).

15.0505

The city hereby rejects the mandatory voting requirement of North Dakota Century Code section 40-33-16, but may authorize a non-binding, opinion vote on this issue if a majority of the Commissioners so decide. The sole authority for contracting with another party for the provision of water to the City of Hazen shall rest with the City Commission.

15.0506

Should the City Commission decide to contract with the Southwest Water Authority for water, the city hereby agrees that upon the completion and acceptance of the improvements and equipment necessary to take delivery of water under the contract, it will initially, and thereafter periodically, amend this ordinance and other related ordinances to establish and maintain rates and charges for supplying water to its inhabitants and industries sufficient to produce net stated amounts during the life of said WATER PURCHASE CONTRACT over and above the amount sufficient to pay all costs of operating and maintaining said water system, including operating reserves and revenues to be paid into the water general fund. The net stated amounts so collected shall be and are hereby appropriated to the utility operation and maintenance account to be used for the monthly payments to become due under the WATER PURCHASE CONTRACT.

15.0507

THE WATER PURCHASE CONTRACT does not provide that the city shall be obligated to pay for water solely out of net revenues, but it is hereby declared as the policy of the city that provision shall be made in each annual budget for any deficiency in the net stated amounts of charges for supplying water which is then deemed likely to occur within the next year.

15.0508

The city agrees to pay at the rate or rates agreed upon in or pursuant to said WATER PURCHASE CONTRACT for all water taken by the city under the contract and resold by it.

15.0509

The city, upon the approval of this ordinance by a majority of the Commissioners present and voting on the ordinance, shall do and perform any other acts, which in the discretion of the city governing body are deemed reasonable and appropriate for the procurement of water under said WATER PURCHASE CONTRACT in the most efficient and economical basis.

15.0510

This ordinance shall be in full force and effect from and after its final passage.