

CHAPTER XIII

WATER AND SEWERS

Article 1

UTILITY ESTABLISHED

113.0101 WATER AND SEWER UTILITY CREATED

The waterworks and sewage 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.

113.0102 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 sewage 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.

113.0103 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.

113.0104 POLICY ON IMPROVEMENTS - EXTENSIONS

It is hereby declared to be the policy of the city that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the manner set forth by the city council.

113.0105 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 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, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time, and that it will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefor.
6. It will cause the annual financial statement of the city required by the provisions of 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. 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 or damage compensated thereby.
8. 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.

Article 2

WATER SERVICE

113.0201 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 obligations bonds, special assessment warrants or other obligations of this city, shall constitute and be known as the waterworks system.

113.0202 WATER SUPERINTENDENT

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

113.0203 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. Such application shall be filed with the city auditor, and the applicant shall thereupon pay to the city auditor, as and for a connection charge, the sum of \$250.00 on an unimproved lot. 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.

113.0204 WATER SERVICE - CONSTRUCTION OF - MAINTENANCE OF BY OWNER

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

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. Services means the service line running from the point of connection with city main to owner's premises.

113.0205 WATER SERVICE - TO PROPERTY NOT PREVIOUSLY ASSESSED

No permit shall be issued for the making of any connection between any water or sewer lines and any property which has not previously been 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 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 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.

113.0206 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.

113.0207 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.

113.0208 WATER SERVICE - METER REQUIRED

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

113.0209 WATER SERVICE - BRANCH SERVICE - WHEN

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

113.0210 WATER SERVICE - METER; REQUIRED - 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 city meter, or between the meter and the main line. The consumer shall not, after original installation of a meter, make any alterations or additions which will interfere with the repair, maintenance, reading, or operation of the meter.

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

113.0211 WATER SERVICE - METER DEPOSITS

There shall be and is hereby established a water meter deposit of \$_____, payable with the application for water service. Whenever the premises are sold, or water service thereto is discontinued at the request of the owner, the vendor or owner shall upon demand made by him be entitled to a refund of the deposit provided the meter is in satisfactory operating condition and no charges for water services to the premises are then delinquent.

113.0212 WATER SERVICE - SERVICES - INSTALLATION OF

In installing water service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in an iron box to which the service is to be connected, by the municipality's employees only. All service pipes connected with the water system shall be laid 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.

113.0213 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 waste cock in the pipe on the house side of the meter.

113.0214 CHECK VALVES

Check valves are hereby required on all water connections to steam boilers 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.

113.0215 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 case make such effort as is practicable to give previous notice to consumers.
3. Non-liability of city for deficient supply or quality of water. It is expressly provided that the city shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.
4. Shutting off water: Charge for. The water department shall make a charge of ten dollars (\$10.00) each for shutting off or turning on services due to delinquent payments.
5. Entrance and access to premises by waterworks employees. 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 person except city employees or fireman 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.

113.0216 RATES AND CHARGES - LIABILITY FOR

Owners of premises where water is supplied shall notify the water department 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

or moves to some place within said city where he is not directly supplied by said water department with water and refuses or neglects to pay said bills within fifteen (15) days after notice thereof, then and in that event the owner of the property for which said bill was rendered shall be liable for said bill, and the water department shall take such measures to enforce collection of such water bill, as are 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 lines 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 collected in the same manner.

Article 3

SEWER SERVICE

113.0301 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 \$145.00, payable to the city for the connection charge.

113.0302 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.

113.0303 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 sewer 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 sewer 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.

113.0304 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.

ORDINANCE NO. 113.0302.1

AN ORDINANCE ESTABLISHING THE PROCEDURE FOR DETERMINING EQUITABLE SERVICE CHARGES TO BE LEVIED ON ALL USERS WHICH DISCHARGE WASTEWATER TO THE WASTEWATER SYSTEM OPERATED BY THE CITY OF TAYLOR, NORTH DAKOTA, AND PROVIDING CERTAIN PROHIBITIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAYLOR:

SECTION 1. PURPOSE

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

SECTION 2. DETERMINING THE TOTAL ANNUAL COST OF OPERATION AND MAINTENANCE

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

SECTION 3. DETERMINING EACH USER'S WASTEWATER CONTRIBUTION PERCENTAGE

The City of Taylor, or its City Engineer, shall determine each user's average daily volume of wastewater, which has been discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system, to determine each user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The City of Taylor, or its City Engineer, shall determine each user's average daily poundage of 5-day 20 degree Centigrade Biochemical Oxygen Demand which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day 20 degree Centigrade Biochemical Oxygen Demand discharged to the wastewater system to determine each user's Biochemical Oxygen Demand Contribution Percentage.

The City of Taylor, or its City Engineer, shall determine each user's average daily poundage of suspended solids which has been discharged to the wastewater system which shall then be

divided by the average daily poundage of all suspended solids discharged to the wastewater system, to determine the user's Suspended Solids Contribution Percentage. Each user's Volume Contribution Percentage, Biochemical Oxygen Demand Contribution Percentage, and Suspended Solids Contribution Percentage shall be multiplied by the annual operation and maintenance costs for the total volume, the total 5-day, 20 degree Centigrade Biochemical Oxygen Demand, and the Total Suspended Solids, for the wastewater system, respectively.

SECTION 4. DETERMINING A SURCHARGE SYSTEM FOR USERS WITH ABOVE NORMAL VOLUME, BOD AND TSS

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

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL VOLUME OF WASTES

Residential users are considered to be one class of user and are hereby levied a charge of \$12.00 * per month. Non-residential users with flows no greater than the average residential user's flow of 3,000 gallons per month and with BOD and TSS no greater than the average residential users strength will be levied the same charge of \$ 12.00 per month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of \$2.00 cents per 1,000 gallons per month for all flows greater than the average residential user's flow of 3,000 gallons per month.

SURCHARGE RATE SCHEDULE FOR ABOVE NORMAL STRENGTH WASTES

Any non-residential user with BOD and TSS greater than the average residential user's strength will pay a surcharge in accordance with the rates determined by the City or its Engineer.

The City of Taylor, or its Engineer, may determine the total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD₅) daily loadings for the average residential user and or user class or in lieu of such a determination can consider the average residential strength wastes to be 200 mg/l BOD₅ and 250 mg/l TSS. The City of Taylor will assess a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The Surcharge will be sufficient to cover the costs of treating such users above normal strength wastes. Such users will pay an additional

* The school pays \$50/month.

user charge of \$0.14 cents per 1,000 gallons for each 25 mg/l or fraction thereof over 200 mg/l of BOD₅ and \$0.07 cents per 1,000 gallons for each 25 mg/l or fraction thereof over 250 mg/l TSS.

SECTION 5. DETERMINING EACH USER'S WASTEWATER SERVICE CHARGE

Each non-residential user's wastewater cost contributions as determined in Sections 3 and 4 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each such user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, Suspended Solids, and 5-day 20 degree Centigrade Biochemical Oxygen Demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule.

SECTION 6. PAYMENT OF THE USER'S WASTEWATER SERVICE CHARGE AND PENALTIES

The City may submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The City shall add a penalty of one percent per month if the payment is not received by the City within 30 days. Should any user fail to pay the user wastewater service charge and penalty within two months of the due date, the City may stop the wastewater service to the property.

SECTION 7. REVIEW OF EACH USER'S WASTEWATER SERVICE CHARGE

The City shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentages on an annual basis and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater system. If a significant user, such as an industry, has completed in-plant modifications which would change that user's Wastewater Contribution Percentages, the user can present at a regularly scheduled meeting of the governing body such factual information and the City shall then determine if the user's Wastewater Contribution Percentages are to be changed. The City shall notify the user of its findings as soon as possible.

SECTION 8. WASTES PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER SYSTEM

The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, or to constitute a hazard in the receiving waters of the wastewater treatment plant is hereby prohibited.

STATE OF NORTH DAKOTA
COUNTY OF STARK
CITY OF TAYLOR

I, Eileen Gjermundson, the duly appointed, qualified and acting City Auditor of the City of Taylor, hereby certify that the within and foregoing ordinance is a true and correct copy of the original ordinance enacted by the City of Taylor North Dakota with the First Reading on the 7th of September, 1999 and the Second Reading and final passage on the 4th of October, 1999.

IN TESTIMONY WHEREOF I have hereto set my hand and affixed the seal of the City of Taylor this 4th of October, 1999.

(CITY SEAL)

Eileen Gjermundson
CITY AUDITOR

NOTE: The City or its engineer will need to determine the additional costs of treating such above normal volume and strength wastes. This information can then be used to fill in the blanks in Section 4 with the appropriate costs per 1,000 gallons, prior to adoption of the ordinance by the City.