

**CHAPTER SEVEN
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ARTICLE 1 – Utility Established

7.0101 Water and Sewer Departments Established

The Water and Sewer Departments are established as separate funds. Each department shall have general charge of all plants, systems, works, instrumentalities, equipment, materials, supplies, lagoons, intercepting sewer, trunk connections, sewer and water mains, filtration works, pumping stations and all parts and appurtenances of waste and storm sewers, subject to all ordinances, rules and regulations.

7.0102 Water and Sewer Departments to be Independent Agency

All of the business affairs of the Water and Sewer Departments shall be conducted, as completely separate and distinct divisions. Separate and distinct accounts shall be maintained upon the accounting system of the City Auditor. These accounts shall at all times reflect the true condition of the Water and Sewer Departments, as distinct from the remaining business of the City and shall disclose the annual profit or loss. The Water and Sewer Departments shall be given credit upon the books of the City for all funds paid by it into the City Treasury and shall be charged on the accounting system with all payments made on its behalf.

Transfers in or out of the Water and Sewer Departments shall not be made except upon order of the City Council. (Source: North Dakota Century Code Section 40-33-12)

Where bonds have now been, or may hereafter be issued against any improvement, which constitute a general obligation of the City, the taxes levied for the payment of such bonds and interest shall be levied and expended in the manner provided by law, after setting up a reasonable reserve for depreciation and new construction, to make payment of the bond requirements from the profits of the Departments.

7.0103 Scope of Utility

The properties of the Water and Sewer Departments, together with all cash and other assets held in the Water and Sewer funds and all moneys, facilities, products and by-products shall be appropriated and dedicated to the purpose of insuring the public health, safety and welfare by furnishing water and sewerage service. The utility shall at all times be under the control of the City Council and operated to provide its service with maximum efficiency and at minimum cost.

7.0104 Service Charges – Use of

The Water and Sewer Departments shall be operated and maintained, and rates and charges for its services, facilities, products and by-products shall make them self-supporting and self-perpetuating. Such charges shall be kept adequate to pay all costs of operation and maintenance, and maintain reasonable operating reserves; to produce revenues to pay the principal and interest incurred for the improvement, and to establish and maintain adequate reserves for the security of said obligations.

Charges may be set to produce surplus revenues to pay or contribute to the cost of any other City functions, subject to the limitations prescribed by law.

The foregoing appropriations shall not be deemed or construed to preclude from defraying any of the expense of any improvement, by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is deemed fair and equitable by the City Council.

7.0105 Policy on Improvements – Extensions

The policy shall be to pay the cost of capital improvements, enlargements and extensions 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 shall be assessed against the properties abutting on such improvements, in sums proportionate to the

total benefits to be derived from 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 City Council shall estimate the probable cost of construction of a lateral main at the same time and place and it shall be assessed against the properties abutting on such main.

3. Twenty percent (20%) 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 City Council 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 the benefits determined to be derived from such trunk sewer.

4. The total cost of storm sewers shall be assessed against properties determined to be benefited in amounts proportionate to the benefits determined to be derived by the respective properties.

5. Where a portion of the benefits is deemed to accrue primarily to the City at large, a portion not exceeding twenty percent (20%) of the cost thereof, as determined by the City Council, 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, or from the proceeds of general obligation bonds.

6. Such portion of the cost of any improvement, as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues. Where due to any error or omissions 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.

7.0106 Provisions for Financing Capital Improvements

The City of Cando may pay the cost of purchasing, erecting, enlarging, improving, extending, or leasing any municipal plant, system, line, or any part thereof:

1. Out of the earnings of the plant, system, or line;
2. By issuing special assessment warrants or bonds as provided below;
3. Partly by such special assessment warrants and partly by such bonds; or
4. Any combination of the above.

If the City Council deems it advisable to pay the whole or any part of the cost of a municipal utility by special assessment warrants, it shall proceed in the form and manner specified by the provisions of sections 40-22 through 40-26 of the North Dakota Century Code.

Within the debt limit provision of the Constitution of North Dakota, the city may pay any portion of the cost of the improvement by general taxation upon all the taxable property in the city. The tax shall be levied at the time of making the improvement and shall be spread over such years and in such amounts as will meet the cost represented by the principal of the warrants issued against the fund and the interest thereon. The tax, when collected, shall be paid into the fund of the district and shall be used solely for the payment of the principal and interest of the warrants issued against the district. The ordinance levying the tax shall be irrevocable so long as any warrants are outstanding against the fund.

The city shall not issue its bonds until the question of issuing the bonds has been approved by a majority of the electors voting upon such question at an election called, held, and conducted as specified in

section 40-33-02 of the North Dakota Century Code. The notice of the election shall specify the maximum amount, maximum interest rate, purpose, and maturity of the bonds.

At or before the issuance of the bonds, the city, by ordinance, shall levy a direct, annual, and irrevocable tax upon all the taxable property in the city in the years and in amounts sufficient to pay the principal and interest of the bonds when due.

7.0107 Bonds to Purchase Special Assessment Warrants

The city may issue bonds for the purchase of outstanding special assessment warrants before or after their maturity, at the best price obtainable, but not exceeding sixty percent of the par value thereof and the interest accrued to the date of purchase. The rate of interest on the bonds shall not exceed the rate of interest on the special assessment warrants for the purchase of which the bonds are issued, and such bonds shall not be sold for less than the par value thereof plus the interest accrued thereon.

ARTICLE 2 – Water Service

7.0201 Water System

All land, buildings, machinery, equipment, tools and apparatus, water mains, hydrants, service connections and all other property used for furnishing water, shall be known as the waterworks system.

7.0202 Superintendent of City Water and Sewer Departments

The Mayor, subject to approval by the City Council, shall appoint a Public Works Superintendent. The duty of the superintendent is to exercise management of the system. He shall have power and authority to purchase such materials, supplies and repairs for the water-sewer system, with the approval of the City Council, as shall be reasonably necessary for the operation of the system. He shall at all times be subject to the supervision and direction of the Mayor, and shall perform such other duties and have such other powers and authority as are hereinafter provided for.

7.0203 Reports

The Public Works Superintendent shall make monthly reports to the City Council.

7.0204 Application for Water Service and Service Connection Charge

Any party desiring water and sewer service for premises not connected with the system, and not subject to the provisions of Section 7.0205 set forth below, shall apply for a connection. Such application shall state an exact description of the premises to be served and the use, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. The application, with the appropriate connection charge as set by resolution by the City Council, shall be filed with the City Auditor.

7.0205 Water Service – To Property Not Previously Assessed

No permit shall be issued for the making of any connection between any water or sewer line on any property which has not previously been benefited by existing water and /or sewer lines or whenever the owners of such property have not been assessed for such water and sewer lines, unless and until such person shall have paid or made a written statement to pay in monthly installments within a maximum of ten years an amount of money as may be therefore determined by the City Council. The amount of the payment shall be based on the area served and benefit resulting to the property involved.

Within 30 days of the receipt of such application, the City Council shall determine the amount of money to be paid before such connection shall be made and shall advise the applicant of such determination. All such money paid and received pursuant to the provisions of this section shall be placed in the water and sewer fund and shall be expended in accordance with the purposes of such fund.

7.0206 Subsequent Connection to Premises

Any party, other than the original applicant, desiring service for premises where a connection has been made pursuant to Sections 7.0204 and 7.0205 hereof shall make written application therefore as described in Section 7.0204 hereof, and if the connection charge for such premises has not been fully paid at such time, the applicant shall pay or agree to pay in like manner and time as described in Section 7.0204 and 7.0205.

7.0207 Separate Connections for each Premise – Exception

Unless special permission is granted by the Public Works Superintendent, each premise shall have a separate and distinct water service connection and sewer service connection, and where permission is granted for branch service systems, each unit on the branch shall pay the fees as set in 7.0222.

7.0208 Service Outside City Limits – Prohibited – Exception

No application for water and/or sewer service outside the city limits shall be approved and no person outside the city limits shall hook up to or make connection with the city water and/or sewer system whether the same now is outside or inside the city limits. Water service outside the corporate limits may be permitted pursuant to contractual agreement arising in limited and extraordinary circumstances but shall be permitted only upon a resolution unanimously adopted. (Source: North Dakota Century Code Section 40-33-13, 14)

7.0209 Service in Unplatted Areas

No application for water and/or sewer service shall be approved and no person shall hook up to or make connection with the City water and sewer system unless the area to be served by said water and/or sewer connection has been duly platted and the plat approved by the City Council and recorded in the County Register of Deeds Office.

7.0210 Water Service – Construction of – Maintenance of by Owner (Rev 6-18-2018)

The cost of original installation of all plumbing between the main and any service devices maintained by the consumer and all extensions made to such plumbing, 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 the city. After the original installation is complete, any repairs found to be necessary from the curb cock or curb line shall be made promptly by the consumer, or the city will discontinue service. Any repairs found necessary from the curb cock or curb line to the city water main shall be performed by the city.

Licensed plumbers at the owner's expense shall construct all services, and the owner shall maintain each service from the curb cock or curb line. The owner shall, likewise maintain services acquired in the future in like manner. Services mean the service line running from the point of connection with the city main to owner's premises.

7.0211 Water Meters – Checked – Fees

Every consumer of water shall provide a suitable place where a meter can be installed and shall supply, maintain and change when necessary, the same, and if the consumer desires to have the meter tested for accuracy, the same shall be done by the city and a fee charged. If the meter is not accurate, it shall be replaced and the fee refunded.

7.0212 Unlawful to Use Water Not Metered – Unlawful to Tamper with Curb Cock

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

7.0213 Defective Service – Consumers Duty to Report

All claims for defective service shall be made in writing and filed with the Public Works Superintendent on or before the fifteenth day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the Public Works Superintendent to investigate the facts alleged in each claim and determine the amount, if any, which should be refunded to a claimant by reason of defective service and report such determination to the City Council. If a claim is approved, such amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the City for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

7.0214 Users Consent to Regulations

Every person applying for water and sewer service, and every owner of property for which such application is made, shall be deemed by such application to consent to all the rules, regulations and rates contained in the resolution or ordinances and to all new rules, regulations or rates duly adopted.

7.0215 Regulations Governing Service

The following rules and regulations shall be considered a part of the contract with every person who takes water and/or sewer service and every person who takes such service shall be considered to be bound thereby.

In the case of making repairs or constructing new work, the city reserves the right to shut off the water at once and keep it shut off as long as may be necessary to accomplish such purposes. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the service.

It is expressly provided the city shall in no event be or become liable 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 for any other cause whatsoever.

There shall be a charge as set by resolution of the City Council for shutting off or turning on services.

Employees of the Water and Sewer Departments 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.

No person except city employees, and members of the Fire Department, in the performance of their official duties, shall open or cause to be opened any fire hydrant without the permission of the Public Works Superintendent.

7.0216 Connection to be Supervised by City Employees

In installing water and sewer service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from the main and the curb cock installed in a box to which the service is to be connected by the individual, his agent or employee under the supervision, direction and control of the Public Works Superintendent. Ten feet spacing shall be allowed between all water and sewer lines in new connections to service. Failure to comply with this section shall be considered a disregard of the rules of the department and service to the affected property can be withheld or discontinued as the case may be.

7.0217 Service Pipes Specifications

All service pipes connected with the water and sewer utility shall be laid five feet and six inches below the established grades or as low as the street mains. All water and sewer pipes shall be of a material approved by the Public Works Superintendent.

7.0218 Curb Cock Specifications

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 case covered with a tight fitting 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 house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

7.0219 Check Valves Required When Necessary

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

7.0220 Use of Water During Fire – Unlawful

It is unlawful for any person to use or allow to be used during a fire any water except for the purpose of extinguishing said fire; and upon the sounding of a fire alarm, it shall be the duty of every person to see that all water services are tightly closed and no water is used, except for necessary household purposes

7.0221 Waterworks Customers May Lay Larger Pipes with Hydrants – When

Whenever proprietors of lumber yards, manufactories, halls, stores, hotels, public buildings or regular customers from the water works wish to lay larger pipes with hydrants and hose couplings, to be used only in case of fire, they will be permitted to connect with the street main at their own expense, upon application for a permit to the City Auditor, and under the direction of the City Council will be allowed the use of water, for fire purposes only, free of charge. No standpipe will be allowed on the premises where the water is not taken for other than fire purposes.

7.0222 Rates and Charges

Water and sewer rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The resolution fixing water and sewer rates and charges shall be kept on file in the office of the City Auditor and shall be open for public inspection.

7.0223 Water Turned off for Non-payment

The City Auditor has the authority to order the turning off of the water supply for non-payment of any of the bill, and may direct the Public Works Superintendent to perform this duty. The City Auditor shall establish a procedure, approved by the City Council, for turning off the water supply. No person, other than the City Auditor, shall order the water turned back on. The City Auditor may designate the Public Works Superintendent to act in the absence of the City Auditor.

7.0224 Rates and Charges – Liability for

The owner or owners of all real property furnished water or sewer service of service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant may be. Owners of premises where water or sewer service is supplied shall notify the City Auditor in case any tenant moves from said premises, prior to such moving.

On request of the owner or owners, the City Auditor 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.

The City Auditor shall have the authority to refuse any applicant for water service at any location when the applicant has an unpaid water bill from any other current or previous location within the City.

The City Auditor shall have the authority to continually leave the billing account in the name of the owner or owners.

It shall be the duty of the City Auditor to certify to the County Auditor such unpaid water or service charges in the same manner and at the same time as other assessments are certified.

7.0225 Duty to Report to Auditor

Every owner or operator of a multiple dwelling unit shall file with the City Auditor a report indicating the total number of units under his control. Every owner or operator of a mobile home park shall file with the City Auditor a report indicating the total number of units in the park and shall further notify the City Auditor of any changes.

7.0226 Excavators

No person, firm or corporation shall excavate in or on any street, alley or other public place for the purpose of installing any water and/or sewer connection until they have complied with the provisions of Sections 3.0220 through 3.0225 of Chapter 3 of these ordinances.

7.0227 Restriction of Use of Water

The City Council may from time to time declare that water may not be used for specific purposes or may only be used in certain parts of the City on certain days for certain purposes. The City shall have the right to prohibit the watering of lawns and gardens, the washing of cars or such other uses of the water as may be necessary to preserve an adequate supply of water.

ARTICLE 3 – Regulation of Sewer Use

7.0301 Purpose

It is the purpose of this article to provide ordinances regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system and to provide penalties for violations thereof.

7.0302 Reserved for Future Use

7.0303 Use of Public Sewers Required

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

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided.

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

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within 30 days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) according to the North Dakota plumbing code of the property line.

7.0304 When Private Sewage Disposal Permitted

Where a public sanitary or combined sewer is not available under the provisions of Section 7.0303, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Chapter.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Public Works Superintendent. The application for such permit shall be supplemented by any plans, specifications, and other information as is deemed necessary by the Public Works Superintendent. A permit and inspection fee as set by resolution of the City Council shall be paid to the City at the time the application is filed.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Public Works Superintendent. The Public Works Superintendent shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Public Works Superintendent when the work is ready for final inspection, and before any underground portions are covered. The Public Works Superintendent shall make the inspection within 72 hours of the receipt of notice.

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

At such time as a public sewer becomes available to a property served by private wastewater disposal system, as provided in Section 7.0303, a direct connection shall be made to the public sewer within 30 days in compliance with this ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with Section 23-19-01 of the North Dakota Century Code.

7.0305 Building Sewers and Connections

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

There shall be 2 classes of building sewer permits and in either case, the owner or his agent, shall make application:

1. For residential and commercial service, and
2. For service to establishments producing industrial wastes.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Public Works Superintendent. A permit and inspection fee as set by resolution of the City Council for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the City at the time the application is filed.

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

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

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

The size, slope alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the piped, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions, specifications of the state building and plumbing codes shall apply.

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

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

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made gastight and watertight and verified by proper testing. The Public Works Superintendent before installation must approve any deviation from the prescribed procedures and materials.

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

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

7.0306 Use of Public Sewers

No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the Public Works Superintendent and the North Dakota State Department of Health. There is an exception to this prohibition and that is sump pumps may discharge into the sanitary sewers during the months of November through March due to the extreme cold temperatures our area experiences. (Rev. 12/2/19)

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

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

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
2. 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 sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and city employees.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

The below described substances, materials, waters or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance.

The Public Works Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Public Works Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer, which shall not be violated without approval of the Public Works Superintendent, are as follows:

1. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
3. Wastewater from industrial plants containing floatable oils, fat or grease.
4. Any garbage that has not been properly shredded (see Section 7.0302. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Public Works Superintendent for such materials.
6. Any waters or wastes containing odor-producing substances exceeding limits that may be established by the Public Works Superintendent.
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Superintendent in compliance with applicable state or federal regulations.
8. Quantities of flow, concentrations or both which constitute a "slug" as defined as any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

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

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges under the provisions of 7.0404.

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

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

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

When required by the Public Works Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Public Works Superintendent. The structure shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.

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

1. Wastewaters discharge peak rate and volume over a specified time period.
2. Chemical analyses of wastewaters.
3. Information on raw materials, processes and products affecting wastewater volume and quality.

4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
6. Details of wastewater pretreatment facilities.
7. Details of systems to prevent and control the losses of materials through spills to the City sewer.

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

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

7.0307 Damage to Sewer Works Prohibited

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

7.0308 Powers and Authority of Inspectors

The Public Works Superintendent shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

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

While performing the necessary work on private properties referred to in Section 7.0308, above, the Public Works Superintendent shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation., except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7.0306.

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

7.0309 Hearing board

A hearing board, consisting of 3 members, shall be selected as needed for arbitration of differences between the Public Works Superintendent and sewer users on matters concerning interpretation and execution of the provision of this ordinance by the Public Works Superintendent.

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

7.0310 Penalties

Any person found to be violating any provision of this chapter except Section 7.0307 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person who shall continue any violation beyond the time limit provided for in this section, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

7.0311 Validity

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The validity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter that can be given effect without such invalid part or parts.

ARTICLE 4 – Sewer Surcharge

7.0401 Purpose

The purpose of this article 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, 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.

7.0402 Determining the Total Annual Cost of Operation and Maintenance

The City Council shall determine the total annual costs of operation and maintenance of the wastewater system that are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works are 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 modification, power, sampling, laboratory tests and a reasonable contingency fund.

7.0403 Surcharge Rate Schedule for Above Normal Volume of Wastes

Residential users are considered to be one class of user and levied a charge as set by resolution of the City Council. Non-residential users with flow no greater than 4,000 gallons per month will be levied the same charge.

Non-residential users with volumes greater 4,000 gallons per month will pay an additional charge as set by resolution of the City Council.

7.0404 Determining Each User's Wastewater Service Charge

Each non-residential user's wastewater cost contributions as determined in 7.0405 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class

of user and an equitable service charge may be determined for each user based on an estimate of the total wastewater contribution of this class of user. The City Council 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.

7.0405 Payment of the User's Wastewater Service Charge and Penalties

The wastewater service charge will be included with the monthly utility billing. Should any user fail to pay the user wastewater service charge and penalty the City Auditor shall enforce the same procedure set for non-payment of the water service.

7.0406 Review of Each User's Wastewater Service Charge

The City shall review the total annual cost of operation and 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 that change that user's wastewater contribution percentages, the user can present at a regularly scheduled meeting of the City Council such factual information and the City shall determine if the user's wastewater contribution percentages are to be changed. The City shall notify the user of its findings.

7.0407 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 plan is hereby prohibited.

ARTICLE 5 – Adoption of State Plumbing Code

7.0501 Adoption

To promote and protect public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, consisting of rules and regulations governing plumbing work, and the whole thereof, and the same is hereby adopted as fully as if set out at length herein and all plumbing work in the city shall comply with said code.

7.0502 Plumbing Code – Enforcement of Provisions

All plumbing work and all private sanitary drains and cesspools now existing, or hereafter to be installed, altered or repaired in any building or in or under private property shall be under the supervision and regulation of the Public Works Superintendent, whose duty it shall be to enforce all the provisions of this code relating thereto and from time to time to make such rules and regulations as may be appropriate for the execution of the same.

7.0503 Plumbing Code – Changes in Existing Installations

The Public Works Superintendent is given authority to order the repair, alteration or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer, or any private sanitary drain, cesspool or privy, which in his judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly, executed by the owner or owners, in accordance with his directions, he may cause the same to be discontinued from any source of water supply. It shall be unlawful for any person in any manner to use any such installation, or to supply water, until the same shall have been put in a safe and sanitary condition according to his direction.

7.0504 Plumbing Code – New Installations

All plumbing work and all excavations in the public streets or alleys, the cutting and replacing of pavement, laying of water and sewer connections and connections to storm water sewers and all construction of private sanitary drains and cesspools within the corporate limits shall be undertaken and executed only by a master plumber or other persons as have obtained a general license for such work together with a permit for each separate job, provided that the tapping of water mains and the placing of corporate cocks therein shall be done only under the direction of the Public Works Superintendent.

ARTICLE 6 – General Penalty Provision

7.0601 Penalty for Violation of Chapter

Any person who is convicted of violating or failing to comply with any of the provisions of this Chapter may be punished by a fine of not more than \$1000.00 or by imprisonment not to exceed 30 days or both.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.