

TITLE IX.

SEWER, WATER, GARBAGE, & STORM WATER MANAGEMENT

CHAPTERS:

- 9-01. Sewer Service
- 9-02. Water and Garbage Service
- 9-03. Storm Water Management Plan

CHAPTER 9-01
SEWER SERVICE

(Source: Ord. 2015-18, Sec. 1; Ord. 2022-17, Sec. 1)

SECTIONS:

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9-0101. **SEWER SERVICE CONNECTION, REPAIRS, AND RATES.** The City Council of the City of Horace hereby establishes the procedure and cost for connection to sewer lines in the City, sets the monthly charges for sewer service, and sets out the City's and customer's responsibilities for repairs to sewer lines.

9-0102. **DEFINITIONS.** The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. **"Building drain"** means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten feet (10') outside the inner face of the building wall.
2. **"Building sewer"** means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
3. **"Clearwater"** means the discharge from a sump pump.
4. **"Combined sewer"** means a sewer intended to receive both wastewater and stormwater or ground water. This type of sewer will not be permitted in the future.
5. **"Cooling water"** means the water discharged from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat.

6. **“Floatable oil”** means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
7. **“Garbage”** means the animal and vegetable waste resulting from handling, preparation, cooking, and serving of foods.
8. **“Industrial wastes”** mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
9. **“National pollutant discharge elimination system (NPDES)”** means the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act.
10. **“Natural outlet”** means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
11. **“Pretreatment”** means application of physical, chemical, and biological processes to reduce the amount of pollutants in or alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the publicly owned wastewater treatment system.
12. **“Pretreatment standards”** means all applicable federal rules and regulations implementing section 307 of the Clean Water Act, as well as any nonconflicting state or local standards. In cases of conflicting standards of regulations, the more stringent thereof shall be applied.
13. **“Properly shredded garbage”** means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2”) in any dimension.
14. **“Public sewer”** means a common sewer controlled by a governmental agency or public utility.
15. **“Public Works Supervisor”** means the supervisor of City public infrastructure including but not limited to water, sewers, and streets. The public works supervisor oversees employees in this department and reports to the City Administrator and/or City Council.
16. **“Radioactive wastes”** means radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriated authority having control over their use and which will or may cause damage or hazards to the sewerage facilities or personnel operating the system.

17. **“Sanitary sewer”** means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater, and surface water that are not admitted intentionally.
18. **“Sewage”** means the spent water of a community. The preferred term is “wastewater.”
19. **“Sewer”** means a pipe or conduit that carries wastewater or drainage water.
20. **“Significant industrial user”** means any industrial user of the City’s wastewater treatment system whose flow exceeds:
 - a. Fifty thousand (50,000) gallons per day; or
 - b. Five percent (5%) of the daily capacity of the treatment system.
21. **“Slug discharge”** means 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 fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the waste water treatment works.
22. **“Storm drain”** (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
23. **“Suspended solids”** means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering.
24. **“Unpolluted water”** means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
25. **“User”** means any person who discharges, causes, or permits the discharge of wastewater into the City’s wastewater treatment system.
26. **“Wastewater”** means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.
27. **“Wastewater facilities”** means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

28. **“Wastewater treatment works”** means an arrangement of devices and structures for treating wastewater, industrial wastes, and slug. The term “wastewater treatment works” sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant.”
29. **“Watercourse”** means a natural or artificial channel for the passage of water either continuously or intermittently.

Terms not otherwise defined herein shall be as adopted in the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

9-0103. **CONNECTION TO PUBLIC SEWERS REQUIRED.**

1. It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Horace, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
2. It is 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 in accordance with subsequent provisions of this ordinance.
3. 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 wastewater.
4. The property owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, in the City and 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 or combined sewer of the City, is hereby required at the property owner’s expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with Fargo Cass Public Health regulations, as amended, provided that said public sewer is within two hundred (200) feet of the property line.
5. Fargo Cass Public Health may grant a variance from the requirements of this section when, in its opinion, undue hardship may result from strict compliance and that strict application would be unreasonable, impractical, or not feasible.

9-0104. **PRIVATE WASTEWATER DISPOSAL.**

1. Where a public sanitary or combined sewer is not readily available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

2. Before commencement of construction of a private wastewater disposal system, the property owner shall first obtain a written permit signed by Fargo Cass Public Health. The application for such permit shall be made on a form furnished by Fargo Cass Public Health, which the applicant shall supplement with any plans, specifications, and other information as are deemed necessary by Fargo Cass Public Health and the City.
3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of Fargo Cass Public Health. Fargo Cass Public Health shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify Fargo Cass Public Health when the work is ready for final inspection, and before any underground portions are covered.
4. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of Fargo Cass Public Health. A permit shall not be issued for any private wastewater disposal system not meeting these conditions. A septic tank or cesspool shall not be permitted to discharge to any natural outlet or to the ground surface.
5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this section, a direct connection shall be made to the public sewer in compliance with this ordinance and Fargo Cass Public Health regulations, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of slug and filled with suitable material.
6. The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All slug 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.
7. Statements contained in this section shall not be construed to interfere with any additional requirements that may be imposed by the local health officer, Fargo Cass Public Health.

9-0105. **PROCEDURE AND COST FOR CONNECTION TO SEWER LINES.**

1. Unauthorized persons shall not uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.
2. Sewer service connection permits shall not be issued by the City until a fee for each connection shall have been paid for such permit. Fees shall be set by resolution of the City Council.

3. Costs and expenses incidental to the installation and connection of the building sewer shall be the sole responsibility of the property owner. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and private sewer is not available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test, to meet all requirements of this ordinance.
6. 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 pipe, joints, 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. Pipe used in the construction or reconstruction of structures shall be Schedule 40. In the absence of suitable code provisions set forth in appropriate specifications of the American Society for Testing and Materials and Water Pollution Control Federation Manual Practice No. 9 shall apply.
7. 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.
8. Persons shall not 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 or clearwater sewer unless such connection is approved by the City and the North Dakota State Department of Health, except as provided hereafter:
 - a. The public works supervisor is authorized to issue a permit to allow a property owner to discharge water into the sanitary water system. Prior to the issuance of the permit, the public works supervisor, or designee, shall verify that the criteria set forth in subsection (c) of this section has been satisfied. The permit shall authorize such discharge only from November 15 through March 15 of each year and the property owner and property shall be subject to such monthly winter discharge fee as established by resolution of the City Council.
 - b. The winter discharge permit shall further require the property owner to permit an inspection of the property on March 16 or as soon thereafter as possible by the public works supervisor, or designee, to determine that the

discharge into the sanitary sewer has been discontinued. In lieu of having the City inspect the property, a person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this section. In the event the property owner refuses that inspection (or fails to furnish a plumber's certificate and photograph of the discharge in lieu thereof) or fails to discontinue the discharge into the sanitary sewer, the property owner and property shall be subject to such increase in fee as established by resolution. A nonrefundable increased fee as established by resolution of the City Council will commence with the April water and sewer billing and continue until the property owner establishes compliance with this section.

- c. For a property owner to be eligible for a winter discharge permit, the water being discharged from the sump pump or footing drain cannot be readily discharged into a storm drain or other acceptable drainage system and at least one (1) of the following criteria must be met:
 - (1) The freezing of the surface water discharge from the sump pump or footing drain is causing a dangerous condition, such as ice buildup or flooding, on either public or private property;
 - (2) The property owner has demonstrated that there is danger that the sump pump or footing drain pipes will freeze up and result in either failure or damage to the sump pump unit or the footing drain and cause basement flooding.
- d. If the public works supervisor, or designee, determines that a sump pump or footing drain is causing an icy condition on streets or sidewalks between November 15 to March 15, the public works supervisor may require the property owner to obtain a discharge permit and discharge the property owner's sump pump into the sanitary sewer system following ten (10) days' written notice and an opportunity for the property owner to be heard.
- e. Any property with a sump pump found not in compliance with this section, but subsequently verified as compliant shall be subject to an annual inspection to confirm continued compliance. Any property found not to be in compliance upon reinspection, or a person refusing to allow their property to be reinspected within thirty (30) days after delivery of mailed written notice from the City of the reinspection, shall be subject to the nonrefundable fee set forth in subsection (b) of this section.
- f. The public works supervisor, or designee, showing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection and observation to identify prohibited discharges into the sanitary sewer system. Any person may furnish a certificate from a licensed plumber certifying their property is in compliance with this section, in lieu of having the City inspect their property. Any person refusing to allow their property to be inspected [or failing to furnish a plumber's certificate thereof within fourteen (14) days from the date the public works supervisor, or

designee, is denied admittance to the property] shall immediately become subject to the increased penalty provided for in subsection (b) of this section, which shall continue until proof of compliance with this section has been provided to the City.

9. 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, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City before installation.
10. The applicant for the building sewer permit shall notify the City 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 City.
11. 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.

9-0106. USE OF PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, 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 City.
2. Stormwater, other than that exempted, 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 public works supervisor or designee.
3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - a. Solid or viscous wastes. Solid or viscous wastes which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

- b. Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch (1/2") in any dimension.
- c. Corrosive wastes. Any waste which will cause corrosion or deterioration of the treatment system.
 - (1) All wastes discharged to the public sewer system must have a pH value in the range of six (6) to nine (9) standard units, except as otherwise provided herein. Prohibited materials, include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds, metallic plating, and substances which will react with water to form acidic products.
 - (2) When authorized by special permit issued by the public works supervisor, wastes discharged to the publicly owned treatment works may exceed a pH value up to (10.5), provided that pH value testing of the City sewer shall be done at least four (4) times per year by the industry receiving the special permit. The test shall be taken at the nearest access hole on the downstream side of the sewer service for the particular building or site for which the special permit was issued.
- d. Toxic substances. Any water 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.
- e. Explosive mixtures. Liquids, solids, or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, zylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- f. Slug discharge. Wastewaters at a flow rate or containing such concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency.

- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public works supervisor in compliance with applicable state or federal regulations.
 - h. Quantities of flow, concentrations, or both which constitute a “slug discharge” as defined herein.
 - i. 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.
 - j. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release poisonous or obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
 - k. Any wastes which are not susceptible to treatment or which interfere with the biological processes or efficiency of the treatment system or will pass through the system causing a violation of the City’s NPDES permit.
5. 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 subsection (4) of this section, and which in the judgment of the public works supervisor, 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 supervisor may:
- a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewers;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges.

If the public works supervisor 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 supervisor and the State Department of Health.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the public works supervisor, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified herein, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters of dwelling units. All interceptors

shall be of a type and capacity approved by the state plumbing code and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the property owner shall be responsible for the proper removal and disposal by appropriate means of the collected material and shall maintain records of the dates and means of disposal which are subject to review by the public works supervisor. Any removal of the collected materials not performed by property owner's personnel must be performed by a licensed waste disposal firm.

7. Where pretreatment or flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the property owner at the property owner's expense.
8. When required by the public works supervisor, 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 supervisor. The structure shall be installed by the property owner at the property owner's expense, and shall be maintained by the property owner so as to be safe and accessible at all times.
9. The public works supervisor may require a user of sewer services to provide information needed to determine compliance with this section. These requirements may include:
 - a. Wastewaters discharge peak rate and volume over a specified time period.
 - b. Chemical analyses of wastewaters.
 - c. Information on raw materials, processes, and products affecting wastewater volume and quality.
 - d. Quantity and disposition of specific liquid, slug, oil, solvent, or other materials important to sewer use control.
 - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - f. Details of wastewater pretreatment facilities.
 - g. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
10. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Waste Water" published by the American Public Health Association. Sampling methods,

location, times, durations, and frequencies are to be determined on an individual basis by the public works supervisor.

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

9-0107. WASTE PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYSTEM. The discharge of wastes containing materials in such quantities to be detrimental to the bacterial activity required for wastewater treatment is hereby prohibited. The discharge of wastes which cause or are likely to cause maintenance problems, such as hindering flow, blocking pipes, and/or clogging pumps, is hereby prohibited. The discharge of liquid or vapor, having a temperature higher than one hundred fifty (150) degrees Fahrenheit or which liquid or vapor could interfere with the operation of the controls for either a pumping station or the treatment facilities, shall be prohibited.

9-0108. CERTAIN DISCHARGES OF STORM SEWER WATER DEEMED NUISANCE.

1. Discharges of storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters into areas with inadequate drainage tend to create a harborage for insect and vermin infestations and are hereby deemed a nuisance. No owner, occupant, or user of property therefore may discharge any storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters in such a manner so as to allow the collection of the same on their property or other properties without proper drainage. Discharges of storm water, groundwater, roof runoff, yard drainage, yard fountain or pond overflow, or other surface runoff waters by the use of such devices as sump pumps must be made directly into the storm sewer system of the City of Horace or drainage ditches which run thereto.
2. No owner, occupant, or user of property abutting Park District property of the City of Horace shall cause or allow water from any spout, sump pump, or similar device to be directly or indirectly deposited on the Park District property. Similarly, no person shall deposit snow, earth, construction material, or other substance on Park District property of the City of Horace without written permission from the City Auditor. Notwithstanding such written permission issued, no person shall deposit any material containing salt, sand, or other substance which may be harmful to vegetation or other Park District property.
3. The City Auditor shall have the authority to issue letters to violators of this section. If the violation is not abated within the time set forth in the notice of violation, the City Attorney is authorized to prosecute such offenses in the Horace Municipal Court or to seek abatement in the District Court.

9-0109. POWER AND AUTHORITY OF INSPECTORS.

1. The public works supervisor, or designee, bearing proper credentials and identification 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 section.
2. The public works supervisor, or designee, is authorized to obtain information concerning industrial processes which 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 a fiscal advantage to competitors.
3. While performing the necessary work on private properties referred to in subsection (1) of this section, the public works supervisor, or designee, 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 as may be caused by negligence or failure of the company to maintain safe conditions.
4. The public works supervisor, or designee, 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.

9-0110. MONTHLY CHARGES FOR SEWER SERVICE.

1. Sewer charges shall be on a monthly basis covering the respective monthly periods each year. The term "residential" as used herein shall include all premises occupied and used exclusively as a home by not more than two (2) families. The term "non-residential" shall include all other premises. When a charge is determined by metered water consumption, the amount of water on which the charge is based shall be that multiple of one thousand (1,000) gallons closest to the actual meter reading.
2. The owner or occupant of each residential or non-residential premises connected with the sewer system of the City shall pay a minimum service charge per month as set by resolution of the City Council.
3. In addition to the minimum service charge, all residential premises shall pay an additional charge as set by resolution of the City Council per one thousand (1,000) gallons for flows greater than ten thousand (10,000) gallons of water per month.

4. In addition to the minimum service charge, all non-residential premises shall pay an additional charge as set by resolution of the City Council per one thousand (1,000) gallons for all flows greater than one thousand (1,000) gallons of water per month.

9-0111. **SEWER RATES AND CHARGES – BILLING.** The City Auditor shall render a statement at the end of the first full week of each month setting forth separately the charges for water and for sewage service for the preceding month to each premise connected with the water or sewage system.

9-0112. **WHEN BILL DUE: FAILURE TO PAY.** All bills for water service, sewage service, charges and rentals, and water deliveries and labor and materials furnished each month shall be due and payable on the 25th day of the month at the office of the City Auditor. A monthly late fee, in an amount set by resolution of the City Council, will be assessed for all payments received after the 25th day of the month. If such bills, or any part thereof, are not paid within sixty (60) days of the date of the bill, the City will provide written notice, at least ten (10) days prior thereto, of the City's intent to shut off the supply of water to the premises for which the bill is rendered and shall not be turned on again until the entire balance has been paid, together with an amount as set by resolution of the City Council for recontinuing the service. A fee will also be charged for all returned checks and returned ACH payments, as set by resolution of the City Council.

9-0113. **LIABILITY OF OWNERS AND OCCUPANTS FOR SERVICES.** The owner and occupant of each premises shall be jointly and severally liable for all charges for water and sewage service and garbage during the period of their respective ownership or occupancy. Water will not be furnished to any property which is indebted to the City.

9-0114. **CITY'S AND CUSTOMER'S RESPONSIBILITIES FOR REPAIRS TO SEWER LINES.** The City shall be responsible for maintenance and repair of leaks or other defects in the sewer main. The property owner shall be responsible for maintenance and repairs of leaks or other defects from the end of the wye on the sewer main to the premises. Property owners are responsible for the service line from the main including the hole in the main and the wye. If there is a leak and it cannot be determined as to whether the leak is in that part of the line for which the City or the property owner has responsibility for repair and maintenance, the City may make the necessary excavation, and if such leak is found to be in the service line on the owner's property, the property owner shall immediately repair such leak, backfill such excavation, and pay the City for the cost of making the excavation. The City may shut off the water service on any property owner who fails or neglects to repair a leak for which they are responsible for maintenance or who fails to pay the cost of the City in making the excavation to determine the location of the leak if the leak is on the property of the owner.

9-0115. **PENALTY.**

1. Any person found to be violating any provision of this section shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit not to exceed thirty (30) days for the satisfactory correction thereof. The offender shall, within the period of time states in such notice, permanently cease all violations.

2. During the 30-day period, if the cited user is in disagreement with the public works supervisor's findings, the user may appeal to the City Council. The City Council shall upon receipt of an appeal, convene a meeting for the purpose of resolving the dispute within fifteen (15) days after receipt of the appeal. The City Council shall:
 - a. Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any hearing.
 - b. Take evidence.
 - c. Take a transcript of the proceedings for the public record.
 - d. Based on all evidence and testimony received, the City Council shall make a decision and notify both parties of such a decision.
3. Any person who shall continue any violation beyond the time limit in subsection 9-0115(2) (30 days) shall be guilty of a misdemeanor.
4. Any person who has appealed to the City Council and lost the appeal shall have fifteen (15) days in which to take action to correct the person's violation. At the end of fifteen (15) days if no action is taken the violator shall be guilty of a misdemeanor.
5. Any person violating any of the provisions of this section shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 9-02
WATER SERVICE
(Source: Ord. 2015-18, Sec. 2)

SECTIONS:

- 9-0201. Water Service Connection – Application.
- 9-0202. Permit Fee.
- 9-0203. Corporation Cock – Curb Stop.
- 9-0204. Stop and Valve – Gate Valve.
- 9-0205. Service Connections.
- 9-0206. Tap Size.
- 9-0207. One Building Per Service.
- 9-0208. Minimum Depth of Service.
- 9-0209. Curb Cock.
- 9-0210. Curb Box Under City Control – Exception.
- 9-0211. Stop Box.
- 9-0212. Plumbers to Close Curb Shut-off.
- 9-0213. Installation and Maintenance of Water Service Lines.
- 9-0214. Owner’s Responsibility for Supply Line if Location of Leak Uncertain.
- 9-0215. Disconnection.
- 9-0216. Meters May be Required.
- 9-0217. One Meter Per Service.
- 9-0218. Meter Repair – Consumer’s Duty.
- 9-0219. Duplexes.
- 9-0220. Meter Seals.
- 9-0221. Freezing – Hot Water – Owner’s Duty.
- 9-0222. Interference with Water System.
- 9-0223. Approval of City Required Before Use.
- 9-0224. New Pipe Diameter.
- 9-0225. Free Access for Inspection and Reading.
- 9-0226. Solder Not Used in Copper Lines.
- 9-0227. Water Rates and Charges.
- 9-0228. Approval of Water Purchase Agreement.
- 9-0229. Water Rates and Charges – Billing.
- 9-0230. When Bill Due: Failure to Pay.
- 9-0231. Liability of Owners and Occupants for Service.
- 9-0232. Garbage Service.

9-0201. **WATER SERVICE CONNECTION – APPLICATION.** Application for Water Service Connections must be made to the City Engineer, on forms to be provided by the City Engineer, in writing by the owner or agent of the property to be served, and shall state the following:

1. Location by legal description of the property to be served;
2. The size and kind of pipe proposed to be used;

3. The size of the tap for the water main desired;
4. The approximate course of the water pipe from the place of connection with the water main until it enters the structure proposed to be served; and
5. The name of the plumber who will do the work.

Said application shall be accompanied by a fee in an amount set by resolution of the City Commission as the fee for tapping into said water main.

9-0202. **PERMIT FEE.** No water service connection permit shall be issued by the City Engineer until a fee in the amount set by resolution of the City Commission for each connection shall have been paid for such permit. Such fee shall include the cost of a water meter.

9-0203. **CORPORATION COCK – CURB STOP.**

1. The Corporation Cock shall be Mueller or equal.
2. The Curb Stop shall be Mueller or equal.

9-0204. **STOP AND VALVE – GATE VALVE.** Every service pipe must have a standard compression stop and valve placed adjacent to and on street side of meter and be kept in working order at all times so that the water may be shut off by the occupant of the premises; there shall also be a gate valve placed on the outlet side of any water meter larger than five-eighths (5/8) of an inch and not more than three (3) feet from the meter, so that the meter can be taken out or replaced without draining the pipe system in the building.

9-0205. **SERVICE CONNECTIONS.** Service connections shall be made with the following kinds of pipe:

“K” type copper with the following exceptions:

That where pipe already under the surface of the ground is proposed to be used that such portion of said pipe left remaining under the surface of the ground may be used even though said pipe may be of material other than “K” type copper; except that “K” type copper pipe must be used between the water main and the curb cock.

9-0206. **TAP SIZE.** No tap shall be smaller than one (1) inch except that where a tapping sleeve is used, a tap of not larger than two (2) inches may be used.

9-0207. **ONE BUILDING PER SERVICE.** No new service shall be constructed and no existing service shall be changed in such manner that more than one (1) occupied building shall be on the same service. Outbuilding may not have a separate service.

9-0208. **MINIMUM DEPTH OF SERVICE.** All services shall have a minimum depth of six (6) feet below finished grade.

9-0209. **CURB COCK.** Each service shall have a curb cock fitted with a valve box of not less than one and one-half (1½) inches in diameter at standard location six (6) inches outside of and at the same grade as the sidewalk.

9-0210. **CURB BOX UNDER CITY CONTROL – EXCEPTION.** The curb box used shall be under the sole control of the City and its employees and no one except an employee or person especially authorized by the City shall open the cover of such box or turn water on or off; provided, however, that licensed plumbers may turn water on or off to test plumbing or make repairs but whenever so used the shut off must be left closed if found closed and open if found open by the plumber who uses it.

9-0211 **STOP BOX.** The stop box on every service must be kept flush with the surrounding ground or sidewalk surface and must be visible from the sidewalk and must be kept in good condition and ready to use at all times, by the owner. If the stop box is located in a driveway, it must have a PVC sleeve surrounding the shut off. Should the owner neglect to maintain such box and shut off in proper condition to be used, the City shall have the right to clean or repair the same without giving notice and charge the cost thereof to the owner; and if payment is refused may turn off the water in the service until the same is paid.

9-0212. **PLUMBERS TO CLOSE CURB SHUT-OFF.** Plumbers installing water service pipes shall close the curb shut-off and leave it closed upon completion of their work, and when pipes are laid to the curb only, they shall close the end of the pipe or fitting with a tight metal plug or cap.

9-0213. **INSTALLATION AND MAINTENANCE OF WATER SERVICE LINES.** All water service pipes and fixtures from the street main to the premises, including the corporation cock and curb stop shall be installed by and at the expense of the owners, unless the City has previously installed all or part of the service pipe and fixtures. The City will be responsible for maintenance and repair of any leaks or other defects of the water service line and fixtures from the point of connection with the street main through and including the curb cock. The owner of the property of such service line shall be responsible for the maintenance of the service pipes from the curb cock to the premises. If there is not a curb cock for that property, the City will be responsible for maintenance of the service pipes from the main, including corporation cocks, to the property line, and the property owner will be responsible from the property line to the premises. If there is a leak that is the responsibility of the owner to repair and the repair is not promptly made, the City may turn off the water until such repairs have been made, and the expense incurred in shutting off the water shall be charged against such owner and must be paid before water will be turned on again.

9-0214. **OWNER'S RESPONSIBILITY FOR SUPPLY LINE IF LOCATION OF LEAK UNCERTAIN.** Where there is a leak in a water supply line and it is uncertain whether such leak is on that part of the line that is the responsibility of the owner or the City, the City may make the necessary excavation, and if such leak is found to be in the service pipe that is the responsibility of the owner to maintain, the property owner shall immediately repair such leak, refill such excavation, and pay the City for the cost of making the excavation. The City may shut off the water to the property if the owner fails or neglects to repair such leak or fails to pay the cost of such excavation.

9-0215. **DISCONNECTION.** No plumber or owner of property shall disconnect or remove water supply fixtures or piping from any premise served by City water or alter the same in such a way as to make the service connection unnecessary for the premises without permanently closing off the connection and reporting the same to the City.

9-0216. **METERS REQUIRED.** Any person, firm or corporation taking water from the water mains is required to use a meter furnished by the City at the expense of the consumer to measure the water used by such consumer. The City shall either install the meter or authorize another person deemed qualified by the City to install the meter. The location of the water meter must be approved by the City.

9-0217. **ONE METER PER SERVICE.** One meter only shall be installed and read on each service.

9-0218. **METER REPAIR OR REPLACEMENT.** After the initial meter is installed, the City will be responsible for the repair and replacement of the meter.

9-0219. **DUPLEXES.** For a duplex dwelling there shall be a separate meter and a separate shut-off in the street for each part of the building.

9-0220. **METER SEALS.** Meters shall be sealed and seals not be broken. Meters shall be removed only by employees of the City.

9-0221. **FREEZING – HOT WATER – OWNER’S DUTY.** Owner or occupant of premises where a meter is installed shall be responsible for its care and protection from freezing and from hot water, and shall give notice when repair is needed.

9-0222. **INTERFERENCE WITH WATER SYSTEM.** No person shall tamper with or by any cause whatsoever damage, destroy or temporarily place out of service any City water main, gate, valve, stop cock, hydrant or other water system connection or machinery or in any manner interfere with the same anywhere in the City. Nor shall any person in any manner obstruct the access to any stop cock, hydrant or valve connected with any water pipe within the City by means of any timber, brick, building materials or other article, thing or hindrance whatsoever. Nor shall any person open any hydrant within the City without permission of the Superintendent of Waterworks or the permission of the commanding officer of the Fire Department.

9-0223. **APPROVAL OF CITY REQUIRED BEFORE USE.** All water connections must be approved and inspected by the City or its authorized agent before the water can be turned on and used.

9-0224. **NEW PIPE DIAMETER.** New pipe being installed must be at least one (1) inch in diameter.

9-0225. **FREE ACCESS FOR INSPECTION AND READING.** Authorized employees of the waterworks 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. If an owner or occupant refuses access, his or her account shall be assessed a surcharge of \$100.00 per month until access is permitted.

9-0226. **SOLDER NOT USED IN COPPER LINES.** No type of solder shall be used in copper water service lines.

9-0227. **WATER RATES AND CHARGES.** Water charges shall be on a monthly basis covering the respective monthly periods each year. The term “residential” as used herein shall include all premises occupied and used exclusively as a home by not more than two (2) families. The term “commercial” shall include all other premises. When a charge is determined by metered water consumption, the amount of water on which the charge is based shall be that multiple of One Thousand (1,000) gallons closest to the actual meter reading.

The owner or occupant of each residential or commercial premises connected with the water works system of the City shall pay for all water used and consumed, as registered by the meter during such month, at the rates and charges set forth in a fee schedule established by resolution of the City Council.

The rates and charges established by this section may be revised or supplemented and may be raised or reduced from time to time, by resolution amendatory hereof or supplemental hereto; provided, that as so revised, such rates and charges shall always yield gross revenues at least adequate to pay all current costs of operation and maintenance of such system and produce net revenues sufficient for the prompt and full payment of all amounts payable by the City in respect to money borrowed for the improvement of the water system.

9-0228. **APPROVAL OF WATER PURCHASE AGREEMENT.** 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 industries; that for such purposes the water supply is unsuitable and inadequate; therefore, the City Council deems it necessary and prudent to contract for the purchase of water.

1. Cass Rural Water District is a water district able and willing to furnish water to the City for its water system in accordance with the Water Purchase Agreement, entered into by and between the City and Cass Rural Water District, which is on file in the office of the City Auditor in accordance with Section 40-33-16 of the North Dakota Century Code. Cass Rural Water District will furnish potable water meeting applicable residential purity standards of the Department of Health of the State of North Dakota in quantities as required by the City at a monthly price to be periodically amended in accordance with the Water Purchase Agreement.
2. The City and Cass Rural Water District may contract for the purchase of water for a term of up to forty (40) years from the date of initial delivery of water.
3. The City hereby covenants and agrees that upon the completion and acceptance of the improvements and equipment necessary to take delivery of water under the Water Purchase Agreement, it will initially and thereafter periodically amend its Utility Services Fee Schedule to establish and maintain rates and charges for supplying water to its inhabitants and industries sufficient to produce net stated amounts monthly for specified periods of time during the life of said Water Purchase Agreement over and above the amount sufficient to pay all costs and expenses of operating and maintaining said water system, including operating reserves and the revenues to be paid into the City’s water fund. The net stated amounts so collected will be pledged and appropriated to the City’s water fund to be used for the monthly payments to become due under the Water Purchase Agreement.

4. The City covenants and agrees to pay at the rate or rates agreed upon in or pursuant to said Water Purchase Agreement for all water taken by the City under said contract and not resold by the City.
5. Pursuant to its Home Rule Charter powers and its powers enumerated under Section 40-05.1-06 of the North Dakota Century Code, the City Council deems it necessary and prudent to approve the Water Purchase Agreement without submitting this Ordinance, which authorizes the purchase of water under said contract, to the voters of the City for approval. The Mayor and the City Auditor are hereby directed to execute on behalf of the City, the Water Purchase Agreement with Cass Rural Water District in accordance with the terms and conditions of this Ordinance.
6. That the City, upon approval of this Ordinance by a majority vote of the City Council, will do and perform any other acts or things, which in the discretion of the City Council, are deemed reasonable and appropriate for the procurement of such water under said Water Purchase Agreement on the most efficient and economical basis.

(Source: Ordinance No. 2020-25)

9-0229. **WATER RATES AND CHARGES – BILLING.** The City Auditor shall render a statement at the end of the first full week of each month setting forth separately the charges for water and for sewage service for the preceding month to each premise connected with the water or sewage system. (Source: Ordinance No. 2022-16, Sec. 1)

9-0230. **WHEN BILL DUE: FAILURE TO PAY.** All bills for water service, sewage service, charges and rentals, and water deliveries and labor and materials furnished each month shall be due and payable on the 25th day of the month at the office of the City Auditor. A monthly late fee, in an amount set by resolution of the City Council, will be assessed for all payments received after the 25th day of the month. If such bills, or any part thereof, are not paid within sixty (60) days of the date of the bill, the City will provide written notice, at least ten (10) days prior thereto, of the City's intent to shut off the supply of water to the premises for which the bill is rendered and shall not be turned on again until the entire balance has been paid, together with an amount as set by resolution of the City Council for recontinuing the service. A fee will also be charged for all returned checks and returned ACH payments, as set by resolution of the City Council. (Source: Ordinance No. 2022-16, Sec. 2)

9-0231. **LIABILITY OF OWNERS AND OCCUPANTS FOR SERVICES.** The owner and occupant of each premises shall be jointly and severally liable for all charges for water and sewage service and garbage during the period of their respective ownership or occupancy. Water will not be furnished to any property which is indebted to the City.

(Source: Ordinance No. 2022-16, Sec. 3)

9-0232. **GARBAGE SERVICE.** Any person with water service requesting not to have garbage picked up at the water connected address should notify the City Auditor, at which time the City Auditor will notify the waste company hired not to pick up any garbage from the person requesting this said item.

(Source: Ordinance No. 2022-17, Sec. 2)

CHAPTER 9-03
STORM WATER MANAGEMENT PLAN

(Source: Ord. 2024-05, Sec. 2)

SECTIONS:

- 9-0301. Purpose.
- 9-0302. Definitions.
- 9-0303. Waivers.
- 9-0304. Extraterritorial Zoning Jurisdiction.
- 9-0305. Permanent Storm Water Facilities Design – One and Two Dwelling Units Exempt.
- 9-0306. Methodologies and Computations.
- 9-0307. Operation, Maintenance, and Inspection.
- 9-0308. Easements.
- 9-0309. Record Drawings.
- 9-0310. Erosion and Sediment Control Permit.
- 9-0311. One Or Two Dwelling Unit Building – Exemption.
- 9-0312. Permit Delays.
- 9-0313. Permit Conditions.
- 9-0314. Permit Duration.
- 9-0315. Permit Modification.
- 9-0316. Permit Amendments.
- 9-0317. Permit Transfer.
- 9-0318. Monitoring Facilities.
- 9-0319. Inspection.
- 9-0320. Frequency of Inspections.
- 9-0321. Power And Authority of Inspectors – Right of Entry.
- 9-0322. Construction Plans and Specifications.
- 9-0323. Management of Site Vegetation.
- 9-0324. Storm Water Violations and Reporting.
- 9-0325. Emergency Suspension.
- 9-0326. Non-Emergency Revocation of a Permit.
- 9-0327. Notification.
- 9-0328. Hearing.
- 9-0329. Legal Action.
- 9-0330. Enforcement – Non-Compliance and Re-Inspection Fees.
- 9-0331. Other Powers.
- 9-0332. Continuation.
- 9-0333. Savings Clause – Conflict.

9-0301. **PURPOSE.** Chapter 9-03 sets forth uniform requirements for storm water management systems within the City of Horace. In the event of any conflict between the provisions of this chapter or other regulations adopted by the City of Horace, Cass County, State of North Dakota, or Federal authorities, the more restrictive standard prevails. The objectives of this chapter are as follows:

1. To promote, preserve, and enhance the natural resources within the City of Horace from adverse or undesirable impacts occasioned by development or other activities;
2. To protect and promote the health, safety, and welfare of the people and property through effective storm water quantity and quality management practices;
3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on storm water quantity, water quality, and/or environmentally sensitive lands, and to encourage compatibility between such uses;
4. To establish detailed review standards and procedures for land development activities throughout the City of Horace, thereby achieving a balance between urban growth, development, and the protection of water quality; and
5. To provide for adequate storm water system analysis and design as necessary to protect public and private property, water quality, and existing natural resources.

9-0302. **DEFINITIONS.** For the purpose of this chapter, the following terms, phrases, and words shall have the meaning provided below. Words used in the present tense include the future tense, words in the plural number include the singular number, singular include the plural number. The word “shall” is always mandatory and the word “may” is always permissive.

1. **“Applicant”** means a person that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, erosion and sediment control plan approval, erosion and sediment control permit, or any other permit which allows land disturbing activities. Applicant also means that person’s agents, employees, and others acting under this person’s direction. The term “applicant” also refers to the permit holder or holders and the permit holder’s agents, employees, and others acting under this person’s direction.
2. **“Best Management Practices”** (BMP) means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State, including treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage which are promulgated or approved and adopted by the City Engineer.
3. **“City”** means the City of Horace or its City Council.
4. **“City Engineer”** means the City Engineer of the City of Horace or his designee.
5. **“Erosion and Sediment Control Permit”** means a permit issued by the City in accordance with this chapter.
6. **“Control measure”** means a practice or combination of practices to control erosion and attendant pollution, see also “Best Management Practices.”

7. **“Development”** means land disturbing activity that changes the site’s runoff characteristics in conjunction with residential, commercial, or industrial construction or alteration.
8. **“Developer”** means a person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbing and/or land development activity.
9. **“Discharge”** means the release, conveyance, channeling, runoff, or drainage of storm water, including snow melt.
10. **“Drainage easement”** means a right to use the land of another for a specific purpose, such as a right-of-way, for the movement of water across or under the land surface or the storage of water.
11. **“Dwelling unit”** means a single unit providing complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
12. **“Erosion”** means removing or wearing away of the surface of land by action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.
13. **“Erosion and Sediment Control Plan”** means a written description or plan indicating the number, locations, sizes, and other pertinent information about Best Management Practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An Erosion and Sediment Control Plan is used in finalizing the State mandated Storm Water Pollution Prevention Plan (SWPPP).
14. **“Erosion control”** means methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.
15. **“Exposed soil”** means an area of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas, and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete, or bituminous, which have less stringent protection. Once soil is exposed, it is considered “exposed soil,” until it meets the definition of “final stabilization.”
16. **“Final stabilization”** means that disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of seventy percent (70%) of the native cover for unimproved areas and areas not covered by

permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

17. **“Hydric soils”** means soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.
18. **“Hydrophytic vegetation”** means macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
19. **“Impervious area”** means a constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel parking lots and roads.
20. **“Land development activity”** means the act of subdivision or platting properties for personal use, adding value, or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.
21. **“Land disturbing activity”** means land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City’s jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting, and filling of land. Within the context of this chapter, land disturbing activity does not mean:
 - a. Minor land disturbing activities such as home gardens and an individual’s home landscaping, repairs, and maintenance work, which will not result in sediments entering the storm water system.
 - b. Additions or modifications to existing single-family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
 - c. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines, or individual service connections to these utilities, which result in creating less than five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.
 - d. Tilling, planting, harvesting, or customary field maintenance activities associated with agricultural, horticultural, or silvicultural (forestry) crops.

- e. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved Erosion and Sediment Control Plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.
- 22. **“Landowner”** means a person holding title to or having a divided or undivided interest in land.
- 23. **“National Pollution Discharge Elimination System Permit” (“NPDES permit”)** means a permit or requirement enforced pursuant to the United States Clean Water Act, as amended, for the purpose of regulating storm water discharge.
- 24. **“Noncompliance fee”** means the administrative fee charged to offset the additional costs and oversight necessary for reinspection of a property which may be assessed to a permittee, land owner, developer, or their contractor(s) for noncompliance with the provisions and/or conditions of an approved storm water plan and/or permit or the violation of any other provisions contained in this storm water ordinance.
- 25. **“One or two dwelling unit building”** means a building that contains one (1) or two (2) dwelling units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes.
- 26. **“Outlet”** means a discharge point, including storm sewers, into a watercourse, pond, ditch, river, or other body of surface or groundwater.
- 27. **“Operator”** means the person, usually the general contractor, who has day to day operational control and/or the ability to modify project plans and specifications related to the SWPP plan. The person must be knowledgeable in those areas of the permit for which the operator is responsible and must perform those responsibilities in a workmanlike manner.
- 28. **“Owner”** means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.
- 29. **“Permanent cover”** means final stabilization. Examples include grass, gravel, asphalt, and concrete.
- 30. **“Permit”** within the context of this chapter is an Erosion and Sediment Control Permit.
- 31. **“Permittee”** means a person who applies for and receives approval of an Erosion and Sediment Control Plan and/or permit from the City.

32. **“Person”** means a developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.
33. **“Prohibited discharge”** (also known as an illicit discharge) means a discharge into the storm water system or river, stream, pond, channel, or ditch, including but not limited to:
- a. Dumping of debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
 - b. Connecting storm water collection systems, such as roof gutters, roof drains, drain tile and sump systems, or other such facility, with a municipal sanitary sewer system unless authorized under this section. The term municipal separate storm sewer system includes a storm sewer opening, a drainage ditch, waterway, or other storm water conveyance. A storm water collection system is connected with a municipal separate storm sewer or sanitary system when storm water is allowed to be directly deposited into the municipal system.
 - c. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).
 - d. Erosion and sediment originating from a property and deposited onto City streets, private properties, or into the storm water conveyance system, including those areas not specifically covered under an approved Erosion and Sediment Control Plan or Erosion and Sediment Control Permit.
 - e. Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic by the end of each workday, or as needed to prevent or minimize the transport of sediment to the storm sewer system.
 - f. For the purposes of this ordinance, prohibited discharges do not include the following, unless information is available to indicate otherwise:
 - (1) Water line flushing;
 - (2) Landscape irrigation;
 - (3) Diverted stream flows;
 - (4) Rising ground water;
 - (5) Uncontaminated ground water infiltration;
 - (6) Uncontaminated pumped ground water;
 - (7) Discharges from potable water sources;

- (8) Foundation drains;
 - (9) Air conditioning condensate;
 - (10) Irrigation water;
 - (11) Springs;
 - (12) Water from crawl space pumps;
 - (13) Footing drains;
 - (14) Lawn watering;
 - (15) Individual residential car washing;
 - (16) Flows from riparian habitats and wetlands;
 - (17) De-chlorinated swimming pool discharges;
 - (18) Street wash water; and
 - (19) Sump pump connections properly connected to the storm sewer.
34. **“Public storm sewer”** means a storm sewer located entirely within publicly owned land or easements.
35. **“Runoff”** means the rainfall, snow melt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.
36. **“Sediment”** means solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice and deposited at another location.
37. **“Sediment control”** means the methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
38. **“Site”** means the entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed.
39. **“Stabilize”** means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.
40. **“Storm sewer”** means a pipe or conduit for carrying storm waters, surface runoff, and drainage, excluding sewage and industrial wastes.
41. **“Storm water”** means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

42. **“Storm water detention”** means temporary storage of storm water runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release, used to delay and attenuate flow.
43. **“Storm water management”** means the planned set of public policies and activities undertaken to regulate runoff and reduce erosion and maintain or improve water quality under various specified conditions within various portions of the drainage system.
44. **“Storm water management system”** means physical facilities that collect, store, convey, and treat storm water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.
45. **“Storm Water Pollution Prevention Plan” (“SWPPP”)** means a joint storm water and Erosion and Sediment Control Plan that is written as a prerequisite to obtaining an NPDES Storm Water Permit for construction activity that, when implemented, will decrease soil erosion on a parcel of land and off-site non-point pollution and includes both temporary and permanent controls.
46. **“Structure”** means anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.
47. **“Subdivision”** means a tract of land divided into building lots for private, public, commercial, and industrial development for the purpose of sale, rent, or lease, including Planned Unit Development.
48. **“Temporary protection”** means short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.
49. **“Undeveloped land”** means land that, in its current state, has not been impacted by significant land disturbing activities annexed into the City or subdivided into multiple ownership lots and is typically zoned agricultural.
50. **“User”** means a person who discharges, causes, or permits the discharge of storm water into the City's storm water management system.
51. **“Waters of the State”** means surface waters that are contained in or flow in or through the State of North Dakota as defined in N.D.C.C. § 61-28-02. This definition includes all water courses, even if they are usually dry.

52. **“Watercourse”** means the natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include easements obtained for the purposes of runoff conveyance.
53. **“Wetlands buffer area”** means a protective vegetated zone located adjacent to a natural resource, such as a water of the State that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion, and providing adjacent habitat.
54. **“Wetlands”** means lands transitional between terrestrial and aquatic systems, excluding drainage ditch bottoms, where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:
- a. A predominance of hydric soils;
 - b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - c. Under normal circumstances, support the prevalence of such vegetation.

9-0303. **WAIVERS.** The City Engineer may waive requirements of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship, and that waiver of such requirement is not contrary to the objectives of this chapter. The City Engineer may require as a condition of the waiver, a dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. A waiver must be in writing to be valid.

9-0304. **EXTRATERRITORIAL ZONING JURISDICTION.** This chapter is intended to be enacted as a zoning regulation and to apply to areas within the City’s extraterritorial zoning jurisdiction as authorized by State law. This chapter shall, therefore, apply to the City’s extraterritorial zoning jurisdiction and references in this chapter to violations occurring within the City shall be deemed to include the extraterritorial zoning jurisdiction of the City.

9-0305. **PERMANENT STORM WATER FACILITIES DESIGN – ONE AND TWO DWELLING UNITS EXEMPT.** An owner must submit to the City Engineer a plan for storm water management and control including detention and retention facilities. The plan shall be submitted, and approval obtained from the City Engineer prior to the owner (a) obtaining approval of an application for a plat pursuant to the Land Use Code of the City, or (b) engaging in land disturbing activity. Said plan may include, in the discretion of the City Engineer, arrangements for further planning and implementation of permanent facilities for storm water management and control by subsequent owners of the property being platted or by the current owner at a later time. Plans submitted for review shall at a minimum contain the total acreage of the development, total impervious area being added by the improvement, and a calculation showing the water detention/retention capacity of the facility. Construction of one (1) or two (2)

dwelling unit buildings shall be exempt from the requirements of this chapter. Projects administered by the City engineering department that include storm water facilities shall be designed under the guidance of the City Engineer and shall be approved by a registered professional engineer, but shall be exempt from the requirements of this chapter.

9-0306. **METHODOLOGIES AND COMPUTATIONS.** Storm water control facilities and erosion/sediment control features shall be designed in conformance with the City's storm water management and control policy approved by resolution of the City Council.

9-0307. **OPERATION, MAINTENANCE, AND INSPECTION.** Storm water management systems shall be designed to minimize the need for maintenance, to provide easy vehicle access, typically eight (8) feet or wider, and personnel access for maintenance purposes, and to be structurally sound. Storm water management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The City Engineer may inspect public and private storm water management systems in accordance with this ordinance. Inspection records will be kept on file at the City Engineer's office. It shall be the responsibility of the applicant to obtain necessary easements or other property interests to allow access to the storm water management system for inspection and maintenance purposes.

9-0308. **EASEMENTS.** Easements may be required as conditions to the issuance of an Erosion and Sediment Control Permit. If a storm water management system involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners necessary easements or other property interests concerning the flow of such water.

9-0309. **RECORD DRAWINGS.** The owner shall provide the City Engineer notice, in writing, of changes or material modifications to the original permitted design in the form of as-built or record drawings. The record drawings shall contain the final configuration for improvements as constructed. A professional engineer registered in the State shall certify the record drawings. If no significant or material changes occurred between the approved plan and final construction, the record drawings need not be submitted to the City Engineer. The owner, however, is responsible for retaining copies of said drawings and providing them to the City Engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter.

9-03010. **EROSION AND SEDIMENT CONTROL PERMIT.** Prior to engaging in any land disturbing activity, an owner shall first (a) submit, for review and approval, the owner's Erosion and Sediment Control Plan, and (b) obtain from the City Engineer an Erosion and Sediment Control Permit. The owner shall complete and file with the City an application for an Erosion and Sediment Control Permit in the form prescribed by the City Engineer and accompanied by a fee established by resolution of the City Council. No application for an Erosion and Sediment Control Permit may be considered unless the applicant has obtained from the North Dakota Department of Health an NPDES Permit. Projects administered by the City engineering department shall include Erosion and Sediment Control Plans that are designed under the guidance of the City Engineer and shall be approved by a registered professional engineer, but shall be exempt from the requirements of this chapter.

9-0311. **ONE OR TWO DWELLING UNIT BUILDING – EXEMPTION.** Construction of one (1) or two (2) dwelling unit buildings shall be exempt from the requirement of submitting or obtaining approval of a plan for permanent facilities for storm water management and control, as required in this chapter, and shall be exempt from the requirement of submitting for review and approval an Erosion and Sediment Control Plan as required by this chapter; however, said construction must comply with the requirement of obtaining an Erosion and Sediment Control Permit.

9-0312. **PERMIT DELAYS.** The City Engineer may withhold granting approval of an Erosion and Sediment Control Permit until issues associated with the site are resolved to the satisfaction of the City Engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.

9-0313. **PERMIT CONDITIONS.** Permits are issued subject to provisions of this chapter and other applicable regulations, user charges, and fees established by the City Council. Permits may contain, but are not limited to, the following conditions:

1. Limits on the maximum rate of allowable storm water discharge;
2. Requirements for water quality of storm water discharge;
3. Requirements for the installation, operation, and maintenance of storm water facilities including detention/retention or other treatment facilities;
4. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the storm water system;
5. Compliance schedule;
6. Requirements for notification to and acceptance by the City Engineer of land disturbing activities which have the potential for increasing the rate of storm water discharge resulting in degradation of storm water quality;
7. Easements; and
8. Other conditions as deemed appropriate by the City Engineer to ensure compliance with this chapter.

9-0314. **PERMIT DURATION.** Permits must be issued for a time period specified by the City Engineer. An extension of a permit may be granted, at the discretion of the City Engineer, upon application for such extension submitted in writing at least thirty (30) days prior to the expiration of the permit.

9-0315. **PERMIT MODIFICATION.** The City Engineer is authorized to modify Erosion and Sediment Control Permits for cause. The City Engineer shall provide written notice of the modification to the permit, and state the cause therefore, at least thirty (30) days before the modified permit is to take effect. Written notice shall be deemed to be delivered upon mailing the notice to the address of the applicant and the owner as provided in the application or such other

address as the applicant or owner may provide to the City Engineer in writing. Cause for modifying the permit shall include but not be limited to:

1. Promulgation of new federal, state, or local regulatory requirements;
2. Changes in the requirements of this chapter;
3. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
4. Changes in the design or capability of receiving storm water systems.

The City Engineer shall include within the modified permit a reasonable time schedule for compliance with the altered or added requirements in the modified permit.

9-0316. **PERMIT AMENDMENTS.** Permits may be amended by the applicant or owner by a written request submitted to the City Engineer. This request shall contain the reason for the change and documentation related to additional impacts, which may result from amendment approval. Amendment requests submitted prior to issuance of a permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the permit applications under this chapter. Depending on the extent of the amendment, the City Engineer may waive additional fees for a permit amendment review.

9-0317. **PERMIT TRANSFER.** A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new landowners in its entirety or by parcel, with each parcel being subject to the permit and conditions which apply to that parcel. In the event land under such a permit is transferred or conveyed in fee, such transfer or conveyance must be reported in writing to the City Engineer within seven (7) days of the transfer. This chapter refers to City issued permits and does not release the applicant or owner from transfer requirements of a NPDES permit including, but not limited to, permit transfers.

9-0318. **MONITORING FACILITIES.** The City Engineer may require the owner to provide and operate, at the owner's expense, a monitoring facility to allow inspection, sampling, and flow measurements of each storm water system component. Where at all possible, the monitoring facility shall be located on the owner's property as opposed to being located on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

9-0319. **INSPECTION.** The City Engineer may inspect the storm water management system of a permittee to determine compliance with the requirements of this chapter. At reasonable times, the owner shall promptly allow the City and its authorized representatives, upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections, or surveys;
2. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys, and investigations;

3. Examine and copy books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted site;
4. Inspect the storm water pollution control measures; and
5. Sample and monitor items or activities pertaining to storm water pollution control measures.

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

9-0320. **FREQUENCY OF INSPECTIONS.** The owner shall be responsible for inspecting measures called for by the approved Erosion and Sediment Control Plan or in the owner's approved SWPPP, as applicable. From the date the permit is issued, during construction, and until final stabilization, inspections shall be done at least once every fourteen (14) days by the owner, and within twenty-four (24) hours after every storm or snow melt event large enough to result in runoff from the site, approximately 0.5 inches or more in twenty-four (24) hours. The owner shall be responsible for providing to the City Engineer, upon request, documentation of the inspections performed, and action taken in response to such inspections, as applicable.

9-0321. **POWER AND AUTHORITY OF INSPECTORS – RIGHT OF ENTRY.** Where it is necessary to make an inspection to enforce the provisions of this chapter, or where the City Engineer has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this chapter which makes the structure or premises unsafe, dangerous, or hazardous, the City Engineer is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the City Engineer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the City Engineer shall have recourse to the remedies provided by law to secure entry.

9-0322. **CONSTRUCTION PLANS AND SPECIFICATIONS.** The Erosion and Sediment Control Plan shall be submitted in a format acceptable to the City Engineer. The plan shall contain a drawing or drawings delineating the features incorporated into the SWPPP including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, and BMPs. In addition, the plan shall contain construction specifications containing technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of BMPs. The permittee shall notify the City Engineer, in writing, as to any changes or material modifications to the original permitted design. The permittee is responsible for retaining copies of said drawings and providing them to the City Engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter.

9-0323. **MANAGEMENT OF SITE VEGETATION.** Landowners shall provide for the installation and maintenance of vegetation on their property as follows, regardless as to whether or not an Erosion and Sediment Control Permit has been approved or is necessary under this chapter, failure to do so shall be a violation of this chapter. Unimproved areas shall be covered either by plants or vegetative growth or, in the alternative, by other means of storm water protection approved by the City Engineer. The term unimproved area means areas other than driveways, sidewalks, patios, areas occupied by structures, and landscaped areas.

9-0324. **STORM WATER VIOLATIONS AND REPORTING.**

1. Erosion and Sediment Control Plan, Erosion and Sediment Control Permit, and non-permit related storm water violations include, but are not limited to:
 - a. Commencing site grading or preparation work without first having obtained an NPDES storm water permit for construction activity, or an Erosion and Sediment Control Permit.
 - b. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES storm water permit for construction activity, Erosion and Sediment Control Plan, an Erosion and Sediment Control Permit, or other standards established by the City Engineer, under authority of the City.
 - c. The causing or allowing of an illicit discharge in the City storm water system, a natural watercourse, storm water easement, stream, or river.
 - d. Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic by the end of each working day.
 - e. Failure to install and maintain the erosion control measures (BMPs) on a construction site as outlined in the approved Erosion and Sediment Control Permit, SWPPP and its amendments, or other standards established by the City Engineer, under authority of the City.
 - f. Other violations or issues as noted or described throughout this Chapter.
2. The City Engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum, the complaint file shall contain the name and address of the owner, date, time, and nature of the violation as well as other information deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint, the file shall also, if voluntarily provided, contain the name, address, and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions, and a memo outlining the determination of the City Engineer and any enforcement action taken and/or any noncompliance fees levied.

9-0325. **EMERGENCY SUSPENSION.** The City Engineer may, for cause, order the suspension of an Erosion and Sediment Control Plan, or an Erosion and Sediment Control Permit when the City Engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If permits are suspended, work in the area covered by the permit shall cease immediately. If a person is notified of such suspension and then fails to comply voluntarily with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may reinstate the Erosion and Sediment Control Plan, or Erosion and Sediment Control Permit upon proof of compliance with all plan or permit conditions. The City Engineer may also order the immediate suspension of work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) is obtained.

Whenever the City Engineer orders the suspension of a plan or permit and/or orders work to stop pursuant to the emergency provisions of this chapter, the City Engineer shall serve notice on the landowner and/or permittee personally, or by registered or certified mail. The landowner and/or permittee has the right to an informal hearing before the City Engineer upon request made, in writing, and filed with the City Engineer. The informal hearing must be held within seven (7) days of the request. Following the hearing, the City Engineer may affirm, modify, or rescind the order.

A person dissatisfied with an order the City Engineer issued pursuant to this section may request a hearing pursuant to sections 09-0327 and 09-0328 by filing a written request for a hearing with the City Engineer, within fifteen (15) days of receipt of the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.

9-0326. **NON-EMERGENCY REVOCATION OF A PERMIT.**

1. An Erosion and Sediment Control Plan or Erosion and Sediment Control Permit may be revoked following notice. An opportunity for a hearing in accordance with sections 09-0327 and 09-0328 will be provided. The City Engineer may revoke a plan or permit for cause, including, but not limited to:
 - a. Violation of terms or conditions of the applicable plan or permit;
 - b. False statements on required reports and applications;
 - c. Obtaining a plan or permit by misrepresentation or failure to disclose fully relevant facts; or
 - d. Any other violation of this chapter or related ordinance.
2. The City Engineer may revoke an Erosion and Sediment Control Plan or Erosion and Sediment Control Permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with sections 09-0327 and 09-0328. Under a revoked plan or permit no additional permit approvals (i.e., excavation, etc.) shall be issued for properties within the area included within the plan or permit

boundaries until approved by the City Engineer. In addition, the City may deny new permits (i.e., stormwater, excavation, etc.) to the permittee or landowner in violation for projects in other locations until current permits are brought into compliance.

9-0327. **NOTIFICATION.** Whenever the City Engineer finds that a person has violated or is violating this chapter, Erosion and Sediment Control Plan, or Erosion and Sediment Control Permit and/or its conditions, or a prohibition, limitation, or requirement contained herein, the City Engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the City Engineer due to the nature of the violation, a plan satisfactory to the City Engineer for correction thereof must be submitted to the City Engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the City Engineer may order work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the City Engineer, that person, within fifteen (15) days of the order of the City Engineer, may request a hearing as provided in section 09-0328.

9-0328. **HEARING.** If a person requests a hearing to contest the order of the City Engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held in front of the City Council at its next regularly scheduled meeting, and directing the person appealing to show cause why the order of the City Engineer should not be upheld. Unless the City Engineer has suspended the permit or ordered work to stop pursuant to section 09-0325, an order stopping work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the City Council, who then shall either uphold, modify, or rescind the order of the City Engineer. An appeal of the City Council's decision may be taken to the Cass County District Court, according to law. Provided that if the City Council upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the Cass County District Court.

9-0329. **LEGAL ACTION.** The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the City shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the landowner's and/or permittee's expense based on the properties from which they originated. The landowner and/or permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the City Engineer's direction and any associated costs shall be the responsibility of the landowner or permittee and, if unpaid within ninety (90) days, may be recommended for assessment action by the City Council against property of the violator.

If a person commences land disturbing activities which result in increased storm water quantity or storm water quality degradation into the City's storm water management system contrary to the provisions of this chapter, federal or state requirements, or any order of the City Engineer, the City Attorney may commence action for appropriate legal and/or equitable relief including administrative or criminal penalties.

9-0330. **ENFORCEMENT – NON-COMPLIANCE AND RE-INSPECTION FEES.** A person who is found to have violated an order of the City Engineer made in accordance with this chapter, or who has failed to comply with any provision of this chapter and the orders, rules, regulations, and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. A schedule for noncompliance and re-inspection fees, which may be imposed for violation of this chapter, may be approved by resolution of the City Council.

9-0331. **OTHER POWERS.** In addition to the enforcement powers specified in this chapter, the City may exercise enforcement powers granted to them by North Dakota law.

9-0332. **CONTINUATION.** Nothing in this chapter shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to previous and valid ordinances and laws.

9-0333. **SAVINGS CLAUSE – CONFLICT.** In the event that any provision, paragraph, or word of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, and words shall not be affected and shall continue in full force and effect; ordinances and parts of ordinances inconsistent or conflicting with this ordinance are hereby repealed to the extent of such inconsistency or conflict.