

CHAPTER 16

WATERWORKS SYSTEM

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ARTICLE 16-01

WATER SERVICES AND CONNECTIONS

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16-0101. Meaning of "water department" or "city water department"--In this chapter the words "water department" or "city water department" shall mean the city of Fargo acting through its qualified officers.

Source: 1952 Rev. Ord. 16-0101.

16-0102. Water service connection--Permit required--Plumbers shall first secure a permit from the city engineer's office before making any connection with a main, and no plumber or other person shall make any attachment or connection to a main to serve premises other than the premises described in the permit.

Source: 1952 Rev. Ord. 16-0102.

16-0103. Application for water service connection--Contents--Applications for water service connections must be made to the city engineering department in writing by the owner or agent of the property to be served. Such application shall state the official house number or lot and block and addition of the premises to be served, the size of pipe required, and the approximate location where such service will enter the premises.

Source: 1952 Rev. Ord. 16-0103.

16-0104. Water service connection--Who to make--Cost--Taps or connections to the water mains will be made by the water department for the plumber engaged by the applicant. Taps shall be paid for before they will be made. The fee for such taps shall be established by resolution of the board of city commissioners, except that connections larger than one and one-half inches in size will be made at the actual cost of labor and materials, plus 20% for overhead expenses. No taps or connections to the water mains shall be made by anyone except an authorized employee of the water department. All corporation stops, curb stops, and curb boxes shall be of a pattern approved by the water department.

Source: 1965 Rev. Ord. 16-0104, 1802 (1977).

16-0105. Services--Construction and maintenance--All new services or larger replacement services, including the necessary pavement and sidewalk cuts and replacement thereof, shall be constructed by licensed plumbers engaged by the owner and at the owner's expense but repairs and maintenance of such services up to the property line shall be performed by the water department. Any repairs or maintenance inside the property line shall be the sole responsibility of the owner of the premises.

Source: 1952 Rev. Ord. 16-0105, 936 (1955).

16-0106. Restrictions on laying of pipes--No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises; but all service pipe shall be laid on streets, alleys, or public ground to the premises to be served and shall enter at the front or rear of the building nearest the main.

Source: 1952 Rev. Ord. 16-0106.

16-0107. Requirements of pipes.--Every service pipe must have a standard compression stop and waste placed adjacent to and on street side of meter, and the compression stop and waste shall 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 inches. The valve shall be installed not more than three feet from the meter, so that the meter can be taken out or replaced without draining the pipe system in the building.

Source: 1952 Rev. Ord. 16-0107.

16-0108. Other regulations governing construction and maintenance.--

- A. Services shall be constructed in accordance with the requirements of the plumbing code of the city of Fargo.
- B. No services shall be constructed from a main for any purpose having a greater capacity than 50% of the main, and in no case shall a service be larger than eight inches in diameter.
- C. Services one and one-half inches in diameter or less shall be of copper pipe, which shall conform to the latest revision ASTM Specification B88-33 for underground services known as Type "L" soft tubing, or greater. Taps on water mains may be made up to two inches in diameter except on mains of six inches diameter or less when taps larger than one inch will not be permitted.
- D. Services one and one-half inches in diameter or less which are located in the same trench as the sewer service main, shall conform to the latest revision ASTM Specification B88-33 for underground services known as Type "K" soft tubing, or greater, and said water service pipe must be placed at an elevation at least 12 inches above the sewer service.
- E. If the water service is placed in the same trench as the sewer service, the sewer service shall be subject to the following requirements:
 - 1. Shall not leak when subjected to a 10-foot head of water, or equivalent.
 - 2. Joints must be water-tight and root-proof.
 - 3. A sewer pipe must be dwv schedule 40 plastic or heavier (SRD 35).
 - 4. The sewer service must be installed at least 12 inches lower than the water service.
- F. Services over one and one-half inches in diameter shall be of standard cast-iron pipe connected to the main by a tapping sleeve and valve or tee. Gate valves below four inches shall not be used. Any cast-iron service less than four inches in size shall have a four-inch gate valve with proper reducers.
- G. No new service shall be constructed and no existing service shall be changed in such manner that more than one building shall be on same service.
- H. Copper services shall have at least two feet of extra length between the main and the curb cock.

Source: 1965 Rev. Ord. 16-0108, 1422 (1972), 2415 (1988).

16-0109. Stopcocks on line of service.--All stopcocks on the line of service must have round ways of the same diameter as the pipe with which they are placed and must be of a make and pattern approved by the water department.

Source: 1952 Rev. Ord. 16-0109.

16-0110. Depth of services--Curb stopcock required.--All services shall have a minimum depth of seven feet below finished grade; and each service shall have a stop or curb stopcock fitted with a box set at standard location, six inches outside of, and at the same grade as, the sidewalk.

Source: 1952 Rev. Ord. 16-0110.

16-0111. Separate curb stopcocks required for each building.--Owners of premises having water services which do not have separate curb stopcocks and boxes for each building or which otherwise do not conform to the requirements in this chapter shall be required to put in such curb stopcock or make such other changes as are necessary to conform to these requirements, when so instructed by the city engineer.

Source: 1952 Rev. Ord. 16-0111.

16-0112. Stop boxes--Design--Control of--Use by plumbers.--The stop box used shall be of a design approved by the water department and must have an unobstructed opening at least one and one-half inches in diameter and be fitted with a substantial cover. The outside shutoff and stop box shall be under the sole control of the water department, and no one, except an employee or person specially authorized by the water department, shall open the cover of such box or turn water on or off; provided, however, that licensed plumbers may turn water on or off for testing plumbing or making repairs, but whenever so used the shutoff must be left closed if found closed, and open if found open, by the plumber who uses it.

Source: 1952 Rev. Ord. 16-0112.

16-0113. Stop boxes--Setting of.--The stop box on every service must be kept flush with the surrounding ground or sidewalk surface and must be kept visible from the sidewalk.

Source: 1952 Rev. Ord. 16-0113, 936 (1955).

16-0114. Curb shutoff--Keeping closed.--Plumbers installing water service pipes shall close the curb shutoff 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.

Source: 1952 Rev. Ord. 16-0114.

16-0115. Curb shutoff--Shutting off after completing test-- Exceptions.--Plumbers shall leave all new water services shut off at the curb stopcock after completing the testing, except that water may be left on only when the owner or his agent has made application for the same and has a receipt from the water department showing payment of all fees.

Source: 1952 Rev. Ord. 16-0115.

16-0116. Installation and maintenance of service pipes and fixtures.--All new service pipes and fixtures from the street main to the premises, including the corporation cocks at the main, the curb stopcock, and the curb box, shall be installed by licensed plumbers engaged by the owner at the owners expense; repairs and maintenance thereto shall be performed by the water department.

Source: 1952 Rev. Ord. 16-0116, 936 (1955).

16-0117. Two or more consumers on one supply pipe--Failure to pay charge--Penalty.--Whenever two or more consumers, whose service has been connected prior to the passage of this chapter, are supplied from one supply pipe, the failure of either consumer to pay the water charge specified or to comply with the provisions of this chapter shall be sufficient cause for the water department to shut off the water supply at the stop box.

Source: 1952 Rev. Ord. 16-0117.

16-0118. Two or more services on one shutoff--Turning on of water.--Where there are two or more services on one shutoff, the water will not be turned on one service unless the service pipes supplying the entire premises are metered and the water bill is paid for each service.

Source: 1952 Rev. Ord. 16-0118.

16-0119. Failure of consumer to locate and repair leaks.--Repealed by Ord. No. 936 (1955).

16-0120. Leaking of unused service pipe--Repairing or turning off.--If a service pipe or connection, which is not being used, is found to be leaking, the water department may, without notice, repair or turn off the same.

Source: 1952 Rev. Ord. 16-0120, 936 (1955).

16-0121. Abandoned service pipes--Permanently closed off--Permit for disconnection--Deposit--Refund.--All service pipes that may become useless because of the laying of larger or other new services, or because water will no longer be used through them, or because a structure or structures have been destroyed or moved off the site must be permanently closed off at the water main at the expense of the owner of the premises and a permit therefor shall be secured from the city engineer and a \$100 deposit made to guarantee that the service line will be properly disconnected at the water main; any such work shall be done to the satisfaction of the city engineer and the water department and the completion of the work shall be reported in writing to both the city engineer and water department after which the \$100 deposit shall be refunded.

Source: 1952 Rev. Ord. 16-0121, 1094 (1961), 1130 (1962).

16-0121.1. Failure to close off abandoned service pipes--Closing off by city--Liability of owner for expense.--If the owner of the premises shall fail to close off any service pipe as described in § 16-0121 within five days after notice or demand served on him, or posted on the premises, if the owner cannot be located after inquiry, then the city, through its proper officers or employees, may close off said pipes and the expense attending the closing off may be recovered from the owner in an action against him or them by the city or such expense may be returned by the city engineer, verified by his oath, to the city auditor.

Source: 1952 Rev. Ord. 16-0121.1, 1130 (1962).

16-0121.2 Expense of closing off to be charged as special assessments.--It shall be the duty of the city auditor to enter such costs and expense so certified by the city engineer as a special assessment against the lot or parcel of land from which the water pipe has been closed off. In August of each year the board of city commissioners shall review all assessments, and hear all complaints against the same, and approve the same as finally adjusted, and such special assessment shall then be certified to the county auditor and be placed upon the tax roll for that year and be collected as other city taxes.

Source: 1952 Rev. Ord. 16-0121.2, 1130 (1962).

16-0122. Unlawful to disconnect, remove, or alter water fixtures without closing water connection and reporting same.--No plumber or owner of property shall disconnect or remove water supply fixtures or piping from any premises 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 at the water main and reporting the same to the city engineer.

Source: 1952 Rev. Ord. 16-0122.

16-0123. Plumber's license may be revoked on failure to repair.--The board of city commissioners may revoke the license of any plumber who, when employed by the consumer, fails to repair any leak, or fails or neglects to fill any excavation, or fails to pay the water department for making any excavation in pavement, where such excavation is made in any street or alley.

Source: 1952 Rev. Ord. 16-0123.

16-0124. Right to shut off water--Notice, when required--Claims against city.---The water department reserves the right, at any time when necessary, without notice, to shut the water off its mains for the purpose of making repairs or extensions or for any other purposes; and no claims shall be made against the city by reason of the breakage of any service pipe or service cock or from any other damage that may result from shutting off water for repairing, laying, or relaying mains, hydrants, or other connections. The water department shall give notice of shutting off water if conditions are such that it is possible to do so.

Source: 1952 Rev. Ord. 16-0124.

16-0125. Leaks or defects in service--Twenty-four hours' notice of water shut-off.--Water may be shut off upon 24 hours' notice in writing to the owner or occupant of the premises when leaks or defects are found in the service between the main and the meter.

Source: 1952 Rev. Ord. 16-0125.

ARTICLE 16-02

CONTROL AND REGULATION OF WATER METERS

Section

- 16-0201 Water meters required.
- 16-0202 Water meters to be attached to all services--Exception.
- 16-0203 One water meter to a service--Private meters.
- 16-0204 Size of water meter furnished, installed, and maintained by water department or owner.
- 16-0205 Water meter--Standard construction and proportions-- Inspection before installed.
- 16-0206 Water meters in duplex dwelling--Payment of water charges.
- 16-0207 Water meters set by water department--Location by owner of property.
- 16-0208 Water meters to be kept sealed--Removal of meter by water department.
- 16-0209 Valves on water meters one and one-half inches in size and over.
- 16-0210 Water meters to be protected from hot water.
- 16-0211 Water meter for large services--Reservation of right by city to install more meters.
- 16-0212 Plumber to get instructions when large service pipe used.

- 16-0213 Protection of water meters--Damage to meter--Notice to water department--Liability of owner.
- 16-0214 Owner of premises to give notice when meter not needed--Responsibility for loss.
- 16-0215 Interference with registration of and breaking seals of water meters prohibited--Exception.
- 16-0216 Tampering with water meter--Water rent to be established.
- 16-0217 Testing water meter at request of consumer--Expenses--When meter deemed accurate.

16-0201. Water meters required.--Any person, firm, or corporation taking water from the water mains of the city shall be required to use a meter furnished by the city, at the expense of the consumer, to measure water used by said consumer and to pay, for the water so used, such rate per hundred cubic feet or per thousand gallons, or otherwise, as the board of city commissioners may, by resolution, adopt. No one shall use water from the water mains of the city, including water used from fire hydrants that is not measured by a meter furnished or approved by the water department.

Source: 1952 Rev. Ord. 16-0201, 2465 (1989).

16-0202. Water meters to be attached to all services--Exception.--Meters shall be attached to all services except fire protection services as provided in § 16-0403.

Source: 1952 Rev. Ord. 16-0202.

16-0203. One water meter to a service--Private meters.--One meter, only, shall be installed and read on each service, except that the board of city commissioners may, in its discretion, permit the installation of more than one meter on an existing service. Property owners may purchase a private meter for use on the house side of the master meter.

Source: 1952 Rev. Ord. 16-0203.

16-0204. Size of water meter furnished, installed, and maintained by water department or owner.--Meters smaller than one inch in size shall be installed, and maintained by the water department at a furnished construction charge of \$3. Meters broken or damaged through carelessness of the consumer shall be repaired at the expense of the consumer, and these charges shall be payable the first of the month following the date of such repairs. Meters one inch in size and larger shall be furnished at the owner's expense subject to the approval of the water department.

Source: 1952 Rev. Ord. 16-0204.

16-0205. Water meter--Standard construction and proportions--Inspection before installed.--Meters shall be of standard construction and proportions and shall pass the inspection of the water department before being installed.

Source: 1952 Rev. Ord. 16-0205.

16-0206. Water meters in duplex dwelling--Payment of water charges.--For a duplex dwelling there shall be a separate meter and a separate shutoff in the street for each part of such building. The owner shall pay the water charges for any existing services to duplex residences where there is only one meter.

Source: 1952 Rev. Ord. 16-0206.

16-0207. Water meters set by water department--Location by owner of property.--All

meters shall be set by the water department, but the owners must provide suitable location in piping system for same. Meters shall be placed on service pipe not to exceed two feet from the wall where such pipe enters the premises. There shall be a stop and waste between the meter and the wall. A suitable place shall be provided for the meter so that it is kept dry and clean, is protected from frost, and is readily accessible at all times to the meter reader and inspectors of the water department.

Source: 1952 Rev. Ord. 16-0207.

16-0208. Water meters to be kept sealed--Removal of meter by water department.--Meters shall at all times be sealed and the seals shall not be broken. Meters shall be removed only by authorized employees of the water department.

Source: 1952 Rev. Ord. 16-0208.

16-0209. Valves on water meters one and one-half inches in size and over.--Meters one and one-half inches in size and over shall be bypassed and a suitable valve on either side of the meter and a valve on the bypass shall be provided.

Source: 1952 Rev. Ord. 16-0209.

16-0210. Water meters to be protected from hot water.--Meters that are liable to become damaged by hot water shall be protected by the installation of a reliable check and relief valve.

Source: 1952 Rev. Ord. 16-0210.

16-0211. Water meter for large services--Reservation of right by city to install more meters.-- For services larger than two inches in diameter, the water department reserves the right to install two or more meters of smaller size. Where meters are so placed, each meter shall have a valve or shutoff on both inlet and outlet pipe in addition to the basement shutoff.

Source: 1952 Rev. Ord. 16-0211.

16-0212. Plumber to get instructions when large service pipe used.--Where a service pipe larger than two inches in diameter is used, the plumber shall call at the water department office for instructions regarding the fittings and space to be provided for the water meters.

Source: 1952 Rev. Ord. 16-0212.

16-0213. Protection of water meters--Damage to meter--Notice to water department--Liability of owner.--The owner or occupant of premises where a meter is installed shall be responsible for its care and protection from freezing or hot water and from other injury or interference from any person or persons. In case of damage to the meter or in case of its stoppage or imperfect working, he shall give immediate notice to the office of the water department. In all cases where meters are broken or damaged by negligence of owners or occupants of premises, or by freezing, hot water, or other damage except ordinary wear and tear, the cost of repairs shall be paid by the owner or occupant, and, in case payment thereof is neglected or refused, the water supply shall be turned off and shall not be turned on until full payment has been made, including a charge of \$2 for turning on the water again.

Source: 1952 Rev. Ord. 16-0213.

16-0214. Owner of premises to give notice when meter not needed--Responsibility for loss.--Wherever a water meter is installed on a water service in premises that are to be remodeled, removed, or destroyed or where the service is discontinued so that the water meter is no longer

needed, the owner of such premise shall give notice in writing to the water department to remove such meter, and free access to such meter must be provided no later than 24 hours after notice is given so that the meter may be removed. The owner of the premise shall be held responsible for the meter until such written notice is given; and if the meter is covered up or lost, he shall be required to pay for the same at the actual value.

Source: 1952 Rev. Ord. 16-0214.

16-0215. Interference with registration of and breaking seals of water meters prohibited--Exception.--No one shall interfere in any way with the proper registration of a water meter and no one, except an authorized employee of the water department, shall break a seal of a meter; provided, however, that the water department may grant specific permission to licensed plumbers to break such seal for draining pipes or stopping water leaks.

Source: 1952 Rev. Ord. 16-0215.

16-0216. Tampering with water meter--Water rent to be established.--If any meter is found to have been tampered with, the water rent shall be estimated for the period and the meter repaired and tested. Upon repetition of the offense, it will be optional with the water department to discontinue the water service or collect the amount estimated due.

Source: 1952 Rev. Ord. 16-0216.

16-0217. Testing water meter at request of consumer--Expenses--When meter deemed accurate.--In case there is doubt on the part of the consumer as to the accuracy of a water meter, he may have the meter tested by the water department, at which test he may be present, or have a representative present if he so desires, and if the meter is found to register within 2% of being correct, a charge of \$1.50 will be made to pay for a part of the labor for making such tests. If the meter is found to measure more than 2% incorrectly, no charge shall be made for making the test. If the meter should be found to over-register more than 2%, there shall be a proportional deduction made from the previous water bill. A water meter shall be considered to register satisfactorily when it registers within 2% of accuracy.

Source: 1952 Rev. Ord. 16-0217.

ARTICLE 16-03

WATER SERVICE RATES, BILLS, AND ACCOUNTS

Section

16-0301	Water rates and charges--Establishment--Change of rate.
16-0302	Water rates--Application in billing service rentals.
16-0303	“Domestic” and “commercial” classes of water services.
16-0304	Water service bills--Due date--Delinquency--Turning off of water--Resumption of service.
16-0305	Water service bills--Payable at water department.
16-0306	Water service--Discontinuance--Notification necessary--Report by plumber.
16-0307	Water service accounts kept in name of owner or tenant.
16-0308	Permission necessary to turn water on, when.

16-0301. Water rates and charges--Establishment--Change of rate.--It is hereby expressly provided that the board of city commissioners reserves the right to change the rate for the use of water from time to time, by resolution, and at all times reserves the right to make such water service restrictions, rules, and regulations as, in the judgment of the board, may be necessary; provided, that the schedules of such rates and charges shall be such as will provide the amounts required, over and above the current expenses of operation and maintenance of the water utility, to produce adequate and proper allowances for depreciation, replacement, and improvement of said utility which will keep the same in a state of efficiency corresponding to the progress of such water utilities generally, including payment of principal and interest and creation and maintenance of reserves securing such payments on any bonds issued to finance or refinance improvements thereto, in accordance with the resolutions and ordinances authorizing such bonds. Water rates, discounts, penalties and service or advance charges shall be those established by the water department and by the board of city commissioners by resolution.

Source: 1952 Rev. Ord. 16-0301, 910 (1953).

16-0302. Water rates--Application in billing service rentals.--In billing water service rentals the rates shall be applied separately on the consumption through each meter or on the total of a set of meters if placed on one service so as to discharge into a common supply pipe.

Source: 1952 Rev. Ord. 16-0302.

16-0303. “Domestic” and “commercial” classes of water services.--Water service shall be divided into two classes; namely, “domestic” and “commercial.” Meters on domestic services shall be billed and collected monthly, and on commercial services shall be billed and collected monthly. The classification for any service may be changed at the discretion of the water department.

Source: 1952 Rev. Ord. 16-0303, 3028 (1999).

16-0304. Water service bills--Due date--Delinquency--Turning off of water--Resumption of service.--All bills are due and payable on or before the tenth day after date of billing. Fifteen days after a bill has become delinquent the water may be shut off from the premises, and, when so shut off, shall not be turned on again until all water rents and all other charges due for services to the consumer, together with \$5 for turning water off and on, has been paid. The consumer shall be notified of the date water will be shut off and afforded the right to an administrative hearing upon

request of the consumer no later than three days before the shut-off date. Water will be turned on only during regular working hours.

Source: 1952 Rev. Ord. 16-0304, 1171 (1964), 2093 (1983).

16-0305. Water service bills--Payable at water department.--All bills for water and other services are payable at the office of the water department during regular working hours or at such other places and times as may be designated by the board of city commissioners.

Source: 1952 Rev. Ord. 16-0305.

16-0306. Water service--Discontinuance--Notification necessary--Report by plumber.--Any consumer desiring to discontinue the use of water must either notify the water department in writing or call a licensed plumber. If the water is turned off at the stop box by a licensed plumber, he must make a report in writing the same day the water service is discontinued.

Source: 1952 Rev. Ord. 16-0306, 936 (1955).

16-0307. Water service accounts kept in name of owner or tenant.--Water service accounts shall be kept in the name of the owner or tenant of the property served.

Source: 1952 Rev. Ord. 16-0307.

16-0308. Permission necessary to turn water on, when.--It shall be unlawful for any person, firm, company, or corporation from whose premises the water shall have been shut off for any of the reasons provided for in this article, to turn the water on without permission from the water department.

Source: 1952 Rev. Ord. 16-0308.

ARTICLE 16-04

FIRE PROTECTION SERVICES

Section

16-0401	Fire services--Construction.
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16-0403	Fire services--When meters not required.
16-0404	When fire system to be opened.
16-0405	Seals broken on fire system--Notice to water department.
16-0406	Size of fire service limited.
16-0407	Installation of more than one fire service to same premises.
16-0408	Use of fire service for other purposes--Penalty.
16-0409	City may require owner to furnish meter.
16-0410	Fire hydrants--Permit required to use.
16-0411	Use of fire hydrants in flushing sewers and streets.
16-0412	Opening of fire hydrants.

16-0401. Fire services--Construction.--The construction of fire services shall be under the personal supervision of an authorized employee of the water department, and the cost of this supervision shall be charged to the owner.

Source: 1952 Rev. Ord. 16-0401.

16-0402. Fire services--Control by gate valve.--Fire services shall be controlled by a gate valve placed in the street as near to the main as practicable. Valves shall be of a standard type and shall have a substantial valve box fitted with a cover upon which directions for opening or closing the valve are plainly marked.

Source: 1952 Rev. Ord. 16-0402.

16-0403. Fire services--When meters not required.--Private fire protection services may be constructed without meters, provided, that all outlet valves are sealed and that the system is approved by the water department.

Source: 1952 Rev. Ord. 16-0403.

16-0404. When fire system to be opened.--Fire protection systems shall be opened in case of fire or for inspection and shall not supply water for domestic or other than fire purposes.

Source: 1952 Rev. Ord. 16-0404.

16-0405. Seals broken on fire system--Notice to water department.--When seals on a fire protection system are broken, it shall be the duty of the owner or occupant to notify the water department within 24 hours thereafter.

Source: 1952 Rev. Ord. 16-0405.

16-0406. Size of fire service limited.--The water department shall reserve the right to limit the size of fire protection services where the street mains are of such size as to make it necessary in order to protect public interest.

Source: 1952 Rev. Ord. 16-0406.

16-0407. Installation of more than one fire service to same premises.--If more than one service is installed to the same premises, the piping system of one shall not be connected with the other except on recommendation of the city engineer.

Source: 1952 Rev. Ord. 16-0407.

16-0408. Use of fire service for other purposes--Penalty.--In any case when the owner or occupants of any premises are found to be using water from a fire service for purposes other than fire protection, the water shall be shut off from the same. A violation of this rule will be considered sufficient cause for cutting the service off at the main and refusing to reconnect same while the offender occupies the premises.

Source: 1952 Rev. Ord. 16-0408.

16-0409. City may require owner to furnish meter.--The water department reserves the right at any time to require the owner of the premises supplied to furnish and install, at his expense and under the direction of the city engineer, an approved water meter and to keep the same in accurate operating condition.

Source: 1952 Rev. Ord. 16-0409.

16-0410. Fire hydrants--Permit required to use.--No person, other than authorized personnel of the Fargo fire department, shall use a fire hydrant without first obtaining a permit therefor from the fire department; and without making arrangements for metering all water used.

Source: 1952 Rev. Ord. 16-0410, 2466 (1989).

16-0411. Use of fire hydrants in flushing sewers and streets.--Hydrants used for construction purposes or for flushing sewers and streets shall have a reducing coupling attached to the nozzle of the hydrant with an independent throttling valve for regulating the supply.

Source: 1952 Rev. Ord. 16-0411.

16-0412. Opening of fire hydrants.--Hydrants shall be opened only with a numbered hydrant spanner which shall be obtained either from the fire department or from the water department.

Source: 1952 Rev. Ord. 16-0412.

ARTICLE 16-05

OTHER RULES AND REGULATIONS

Section

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| 16-0501 | Contractor's services--Application for temporary service--Guarantee of charges. |
| 16-0502 | Water supply from two sources--Separation of piping systems--Substitution of private supply for city water. |
| 16-0503 | Premises having direct connection to two sources of water supply--Disconnection. |
| 16-0504 | Safety devices required. |
| 16-0505 | Repair of services to conform to chapter. |
| 16-0506 | Water department does not guarantee accuracy of information given. |
| 16-0507 | Unnecessary waste--Right to cut off supply--Restrictions on uses. |
| 16-0508 | Fixed pressure not guaranteed--Emergencies--Shut off without notice. |
| 16-0509 | Nonliability of city for water service breakage or failure in supply. |

16-0501. Contractor's services--Application for temporary service--Guarantee of charges.--When a temporary service is desired by contractors and builders for water to be used on construction work, they shall make application to the water department and deposit with the water department a sum not to exceed \$25 for a meter to be used on such services to guarantee payment of such water service charges and the return of the meter in good order; the charges for such water service shall be at the same rate as other services.

Source: 1952 Rev. Ord. 16-0501.

16-0502. Water supply from two sources--Separation of piping systems--Substitution of private supply for city water.--On premises where water is supplied from two sources, the city water being one of them, the piping system for city water must be entirely separated from that of the other source. If other than city water is to be furnished premises previously supplied with city water, the owner or his plumber must give notice at the office of the city water works when he will make this change and must also cut off the city water at the corporation cock and disconnect the service pipe.

Source: 1952 Rev. Ord. 16-0502.

16-0503. Premises having direct connection to two sources of water supply--Disconnection.--Premises now having direct connection between the city water supply and another supply shall forthwith disconnect the same.

Source: 1952 Rev. Ord. 16-0503.

16-0504. Safety devices required.--Consumers are required to equip boilers, heating plants, and refrigeration machinery with safety devices or provide auxiliary supplies. Every hot-water heater and hot-water storage tank must have a check valve on the supply pipe line and a suitable relief valve on the discharge line of such heater or tank.

Source: 1952 Rev. Ord. 16-0504.

16-0505. Repair of services to conform to chapter.--Repairs made to existing water services shall cause each service to conform in every respect with this chapter.

Source: 1952 Rev. Ord. 16-0505.

16-0506. Water department does not guarantee accuracy of information given.--Such information as may be obtained from the records, maps, and employees of the water department relative to the location of water mains and service pipes will be furnished to licensed plumbers and interested parties, but the water department does not guarantee the accuracy of such information.

Source: 1952 Rev. Ord. 16-0506.

16-0507. Unnecessary waste--Right to cut off supply--Restrictions on uses.--Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. If unnecessary waste of water takes place, the water department reserves the right to cut off the supply. The city reserves the right to prohibit the use of water for yard sprinklers, elevators, air conditioners, and coolers, and by large consumers of water when in the judgment of the board of city commissioners it shall be necessary to do so.

Source: 1952 Rev. Ord. 16-0507.

16-0508. Fixed pressure not guaranteed--Emergencies--Shut off without notice.--The water department does not guarantee the consumer any fixed pressure or a continuous supply. In emergencies water may be shut off without notice.

Source: 1952 Rev. Ord. 16-0508.

16-0509. Nonliability of city for water service breakage or failure in supply.--The water department shall not be held responsible by reason of the breaking of any service pipe or apparatus, water coil, or shutoff or for failure in the supply of water.

Source: 1952 Rev. Ord. 16-0509.

ARTICLE 16-06

APPLICATION OF RULES

Section

16-0601 Foregoing rules and regulations considered part of every contract.

16-0601. Foregoing rules and regulations considered part of every contract.--The foregoing rules and regulations shall be considered a part of the contract with every person who takes water supplied by the city of Fargo through the city waterworks, and every such person who takes water shall be considered as having expressed his agreement to be bound thereby.

Source: 1952 Rev. Ord. 16-0601.

ARTICLE 16-07

MUNICIPAL UTILITIES FUND

Section

16-0701 Water used, wasted, or donated by city to be provided for by taxation.

16-0702 Tax levy--Computation of amount.

16-0703 Municipal utilities fund.

16-0704 Municipal utilities fund--How used.

16-0701. Water used, wasted, or donated by city to be provided for by taxation.--The board of city commissioners shall annually provide by appropriation and uniform tax levy on property subject to their jurisdiction such sums hereinafter designated per hydrant (or more, if in their judgment more is necessary) to defray the cost and expense (including maintenance and depreciation) incident to and caused by reason of the general and special use by the city of the waterworks, filtration plant, fire hydrants, and distribution system in supplying water to the municipal buildings, city public parks and fountains, donees (such as a charity, or for semi-public use which has no income or profit), for sprinkling streets, flushing sewers, construction of public improvements, and extinguishing fires, for the next succeeding fiscal year; provided, that if in any years, surplus water revenues shall be received which are transferable to the general fund of the city in accordance with the provisions of § 16-0704 and article 8 of this chapter, the tax levy for said purposes collectible in the succeeding year may be reduced by an amount not exceeding the amount of said surplus revenues.

Source: 1952 Rev. Ord. 16-0701, 910 (1953).

16-0702. Tax levy--Computation of amount.--The sum or sums herein provided and hereby ordained as necessary for the purposes in § 16-0701 designated and provided shall be computed upon the following basis per fire hydrant according to the class or classes under which the board of city commissioners, by ordinance or resolution, shall determine and provide with respect to the annual municipal uses, waste, and donations of water, and the sums per hydrant shall be cumulative if any such water takings shall be in more than one class.

Class 1. Use of water for extinguishing fire under a required pressure not greater than 50

pounds per square inch, not less than the annual sum of \$24 per hydrant for each and every hydrant within the corporate limits of the city, or

Class 2. Use of water for same purpose under a required pressure greater than 50 and not greater than 75 pounds per square inch, not less than the annual sum of \$36 per hydrant for each and every hydrant within the said corporate limits, or

Class 3. For supplying water to city buildings, parks, fountains, street, drinking bubblers, public or semi-public places which have no income or profit, or as charity, sprinkling city roads and streets, flushing sewers and streets, under a required normal pressure not exceeding 40 pounds per square inch, not less than the annual sum of \$20 per hydrant for each and every hydrant within said corporate limits, or

Class 4. For granting permit to, or allowance of, any person, firm, or corporation to use fire hydrants for public construction work upon buildings, street paving, sidewalks and improvements, or tamping ditches, not less than the annual sum of \$7.50 for each hydrant for which a permit is issued.

Source: 1952 Rev. Ord. 16-0702.

16-0703. Municipal utilities fund.--All sums collected as provided for in §§ 16-0701 and 16-0702, together with all sums derived from other rates and charges for the services, facilities, products, and by-products of the water system and the sewerage system and of any future additions thereto and betterments thereof furnished and made available to the city and its inhabitants and all other customers, and all amounts realized upon sale or disposition of any of the properties of the city used or useful in the operation of said systems, shall be paid into and credited to a special fund to be maintained separate from all other funds on the books and records of the city and to be known as the "municipal utilities fund." Said fund shall be used only for the purposes and disbursed only in the manner provided in § 16-0704, and in accordance with the further provisions and limitations of article 16-08 of this chapter and article 17-01 of chapter 17.

Source: 1952 Rev. Ord. 16-0703, 910 (1953), 1098 (1961).

16-0704. Municipal utilities fund--How used.--Upon proper orders or warrants issued upon the authority of the board of city commissioners, there shall be paid out of the municipal utilities fund all sums necessary for the operation, maintenance, enlargement, repair, alteration, improvement, and extension of the plant or plants the earnings of which go into the fund, including the payment of principal of and interest on any bonds issued for such purposes and made payable from or a charge upon the earnings of such plant or plants, and the creation and maintenance of reserves securing such payments in the amounts covenanted and agreed in the ordinances and resolutions of the city authorizing such bonds; but no sum shall be paid out of or diverted from the fund for any purpose except that when the board of city commissioners shall determine that there is a cash surplus in the municipal utilities fund over and above any amount necessary to provide adequately for the operation, maintenance, repair, enlargement, alteration, improvement, and extension of the plant or plants and the payment of bond principal and interest and the creation and maintenance of bond reserves, it, in its discretion, may invest the surplus or transfer a portion thereof as follows:

- A. All or any part of the surplus may be invested by the board of city commissioners in interest-bearing bonds of the United States government, the state of North Dakota, or any bonds or special improvement district warrants of the city of Fargo, and all the principal and interest on the warrants and bonds, when repaid, shall be placed back in the municipal utilities fund; or
- B. The board of city commissioners, at the end of the fiscal year or at various

times during the year, may divert and transfer from the surplus in the fund to the general fund of the city or to any other fund of the city, a total sum of not more than 20% of the gross receipts of the municipal utilities for the fiscal year of the city during which the transfer or transfers are made.

Source: 1952 Rev. Ord. 16-0704, 910 (1953).

ARTICLE 16-08

WATER UTILITY FUND AND REVENUE BONDS

Section

- 16-0801 Authorization of revenue bonds.
- 16-0802 Disposition of and accounting for bond proceeds.
- 16-0803 Water utility fund.
- 16-0804 Priorities among issues of revenue bonds.
- 16-0805 Covenants for the security of revenue bonds.
- 16-0806 Sale, execution, and delivery of bonds.
- 16-0807 Repealing clause.
- 16-0808 Reserve revenue bond financing--Deficiency levy.

16-0801. Authorization of revenue bonds.--It is hereby found, determined, and declared that the water system owned and operated by the city, herein referred to as the "municipal water utility," comprising all systems, plants, works, instrumentalities, and properties used and useful in connection with the obtaining of a water supply and the conservation treatment, and disposal of water for public and private uses, within and without its corporate limits, together with all parts thereof and all appurtenances thereto, including, but without limitation, lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, water mains, filtration works, pumping stations, and equipment, constitutes a municipal undertaking as described in chapter 40-35 of the North Dakota Century Code, under the provisions of which law the city may improve, better, and extend said utility and may pay the cost thereof in whole or in part by the issuance of revenue bonds, payable exclusively from the net revenues of said utility; provided, that no holder thereof shall ever have the right to compel an exercise of the taxing power of the city to pay said bonds or the interest thereon, or to enforce payment thereof against any property of the municipality, and said bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city. Such bonds are hereby authorized to be issued and sold in such amounts and at such times and subject to such terms with reference to time and manner of payment of principal and interest as the board of city commissioners shall determine, by resolution duly adopted at a regular meeting thereof, to be necessary and expedient for the purpose of keeping the utility in a state of efficiency corresponding to the progress of water utilities generally; provided, that all such bonds shall be issued subject to the further terms and provisions of this article.

Source: 1952 Rev. Ord. 16-0801, 910 (1953).

16-0802. Disposition of and accounting for bond proceeds.-- Upon delivery of each issue of such revenue bonds the entire proceeds thereof, except accrued interest and premium, if any, received thereon, shall be deposited by the city treasurer in a separate bank account in a duly qualified depository bank and secured as required by the laws of the state of North Dakota, and shall

be held and accounted for on the books of the city as a separate and special construction fund; and the monies in said fund shall be disbursed only upon orders duly executed pursuant to claims duly allowed by the board of city commissioners for the payment of expenses, which, in accordance with sound accounting practices, constitute legitimate capital expenditures for the improvement of said municipal water utility, in accordance with plans and specifications theretofore approved by said board; provided, that any monies in such construction fund which are not immediately required for payment of such expenses may, in the discretion of the board and when authorized by resolution thereof, be invested in general obligations of the United States government maturing not more than one year from the date of such investment. The costs of improvements to be paid from said construction fund shall include all expenses incurred and to be incurred which are reasonably required for the completion thereof in accordance with the plans and specifications thereof, including, but without limitation, amounts due to the contractor or contractors for work and materials furnished, the cost of all lands, easements, equipment, materials, and labor necessary to be procured by the city in connection therewith, all costs of the issuance of the revenue bonds financing the same, and all engineering, inspection, fiscal, and legal expenses.

Source: 1952 Rev. Ord. 16-0802, 910 (1953).

16-0803. Water utility fund.--So long as the principal of or interest on any of the bonds authorized by this article to be issued shall be outstanding and unpaid, the city irrevocably covenants with the holders from time to time of each said bonds that it will maintain, within the municipal utilities fund established by § 16-0703 of this chapter, a special subfund which is hereby created and designated as the "water utility fund." The monies from time to time held in said water utility fund shall be accounted for on the books and records of the city, separate from all other funds and separate from any other monies of the municipal utilities fund pertaining to any public utility other than the water utility now or hereafter operated by the city. Into the water utility fund there shall be credited and paid, as received, the entire gross revenues derived from the operation of the water utility, and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products, and by-products of the utility furnished or sold to the city and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the utility not necessary to be retained, and from the investment of any of the monies so collected; but such gross revenues shall not be deemed to include any sums realized from special assessments or taxes which may be levied or bonds or other obligations which may be issued for the financing of improvements to said utility. All such gross revenues shall be deposited as received in a duly qualified depository bank and secured as required by law. On the books and records of the water utility fund there shall be established and maintained four separate accounts, to be designated as the "operation and maintenance account," "revenue bond account," "reserve account," and "surplus account," respectively. The revenues on hand in the water utility fund from time to time shall be apportioned among the said accounts at least once in each calendar month and shall thereafter be held and administered in and disbursed from the several accounts as follows:

- A. To the operation and maintenance account there shall be credited upon each such monthly apportionment, as a first lien and charge on the gross revenue, such sum as shall be needed, over and above any credit balance then held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable, and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for

contingencies. Monies in said account shall be used only to pay expenses of the foregoing type, and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. The net revenues of the utility, which are herein pledged and appropriated to the extent required for the payment of the bonds herein authorized and interest thereon, are hereby defined as the aggregate of all sums on hand in the water utility fund from time to time in excess of the current requirements of the operation and maintenance account as herein set forth.

- B. To the revenue bond account there shall be credited, out of the net revenues on hand at the time of each such distribution, an amount equal to not less than one-twelfth of the sum of the principal and interest payments to become due upon all outstanding bonds which are payable from said account within the next succeeding period of 12 months. If the net revenues on hand at any time are insufficient to permit the transfer to said account of the full amount so required, such deficiency shall be restored out of the next net revenues thereafter received. There shall also be credited to said account the premium and accrued interest, if any, paid on each such issue of revenue bonds payable from said account. The monies in said account shall be used only for the purpose of paying the principal and interest, as such principal and interest respectively become due, on revenue bonds which are issued and made payable therefrom, as a first lien and charge on the net revenues, in accordance with the provisions of § 16-0804. All monies pertaining to said revenue bond shall be deposited as received in a special bank deposit account, separate from all other funds of the city.
- C. To the reserve account there shall be credited out of the net revenues on hand each month, commencing July 1, 1954, in excess of the current requirements of the revenue bond account, such sum as will be sufficient to accumulate therein a balance of \$120,000 on or before July 1, 1957, and thereafter to maintain the same in said amount; provided, that it is the intention hereof to establish and maintain in said account a reserve at all times at least equal to the average of the annual principal and interest payments thereafter required to be made from the revenue bond account, and in the event that such average annual principal and interest requirements shall exceed \$120,000 by reason of the authorization of any issue of bonds payable from the revenue bond account, additional net revenues shall be transferred to the reserve account monthly in amounts sufficient to increase the balance therein to the amount so required within three years from and after the issuance of such bonds. Monies in the reserve account shall be used only for the payment of maturing principal and interest on bonds primarily payable from the revenue bond account, when and as the monies in the revenue bond account are insufficient therefor, and whenever so used shall be restored out of the next net revenues thereafter received. All monies pertaining to the reserve account shall be deposited as received in a special bank deposit account, separate from all other funds of the city; provided, that such monies may be invested in the discretion of the board of city commissioners but only in general obligations of the United States government maturing within one

year from and after the date of purchase thereof.

- D. All surplus net revenues from time to time received, in excess of the current requirements of the revenue bond account and reserve account, shall be credited on the books of the city to the surplus account of the water utility fund; provided, that the city reserves the right to create additional accounts within said fund for the purpose of segregating any of such surplus net revenues which may be pledged and appropriated to the payment of any obligations hereafter issued to finance improvements, replacements, or repairs of said utility, other than bonds made payable from the revenue bond account, and subject to the prior lien on the net revenues of the bonds payable from that account. Surplus net revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore any deficiency in the operation and maintenance account and the revenue bond account and reserve account, but when not so needed may be used to pay for capital improvements, replacements, or repairs of the water utility, or to pay principal and interest on obligations hereafter issued for such purposes, other than bonds payable from the revenue bond account, or may be used to redeem and pay, prior to maturity, bonds payable from the revenue bond account, when and as such bonds become redeemable according to their terms. Monies in the surplus account determined by the board of city commissioners to be in excess of the immediate requirements of said account for the repair, enlargement, alteration, improvement, or extension of the utility may be invested in accordance with the provisions of § 16-0704 of this chapter and § 40-33-12 of the North Dakota Century Code. The board shall maintain in said account such a balance of cash and investments as it shall from time to time determine to constitute an adequate reserve for operation and maintenance emergencies and for depreciation and contemplated improvements or replacements; but monies in excess of such reserve may be transferred to other funds of the city in accordance with the subject to the limitations contained in said § 16-0704 and in § 40-33-12 of the Century Code.

Source: 1952 Rev. Ord. 16-0803, 910 (1953).

16-0804. Priorities among issues of revenue bonds.--The total principal amount of revenue bonds which may be issued and made payable from said revenue bond account, as a first and prior lien and charge on the net revenues of the utility, as herein defined, is limited to \$1,575,000, and after the initial issuance of revenue bonds in this amount, no additional obligations of any kind shall be issued or incurred and made payable from said net revenues unless the lien thereof upon said net revenues is expressly made junior and subordinate to that in favor of the bonds issued hereunder; save and except that:

- A. If monies on hand in the water utility fund should at any time be insufficient for the payment of the principal and interest then due on all bonds payable from the revenue bond account, any matured bonds which cannot be paid from said monies may be refunded by the issuance of refunding revenue bonds, which refunding bonds may be made payable from the revenue bond account on a parity as to interest with all then outstanding bonds payable from said account, but shall mature not earlier than one year after the latest

maturity date of such outstanding bonds.

- B. In the event that the board of city commissioners shall at any time determine it to be necessary and expedient to issue additional bonds to finance capital improvements of said utility, or to refund outstanding bonds payable from the revenue bond account, which are then prepayable according to their terms for the purpose of reducing the interest rate or interest cost or extending the maturities thereof, such additional or refunding revenue bonds may be made payable from the revenue bond account on a parity as to both principal and interest with the then outstanding bonds payable from said account, if the annual net revenues received during the fiscal years next preceding such issuance shall have equaled or exceeded 125% of the average of all principal and interest to become due and payable from said account in each subsequent complete fiscal year of the then remaining term of said outstanding bonds, on such outstanding bonds and the additional or refunding bonds to be issued.
- C. If any of the rates and charges for water service shall have been increased or reduced at any time subsequent to the commencement of the fiscal year immediately preceding the issuance of additional bonds as contemplated in part (B) above, the net revenues for the period prior to such change shall be deemed, for the purpose of the computation required in said part (B), to be those which would have been received by applying the revised rates and charges to the quantities of water actually consumed and municipal hydrants actually maintained during such period, less the estimated amount of decrease in consumption due to an increase in said rates and charges, and by deducting from the gross revenues so determined the actual operating expenses of the utility for said period. The computation of the net revenues in the event of any such change in rates shall be made by a qualified and disinterested engineer and approved by the board of city commissioners.

Source: 1965 Rev. Ord. 16-0804, 1436 (1972).

16-0805. Covenants for the security of revenue bonds.--The city hereby further covenants and agrees with the original purchaser and each holder from time to time of each bond issued hereunder, as follows:

- A. It will complete all improvements financed by the issuance of such bonds in substantial accordance with the approved plans and specifications therefor and with due diligence and with the greatest economy consistent with good workmanship and efficient results, and will do so without creating or permitting the creation of any liens and encumbrances on said utility or on the revenues thereof other than the liens and charges on said revenues expressly authorized in this ordinance.
- B. As long as any of such bonds are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competition as to the services thereby provided and in good and efficient operating condition.
- C. It will at all times maintain and collect reasonable rates, charges, and rentals for all services, facilities, commodities, and benefits furnished and made available by said utility according to schedules such that the net revenues derived therefrom will be at least sufficient to pay into said revenue bond account and reserve account the amounts required in § 16-0803 hereof at the

times therein provided, and to provide surplus net revenues adequate for payment of principal and interest on any obligations hereafter issued as a lien on the net revenues junior to the lien of bonds payable from the revenue bond account, and will revise such schedules in such manner and whenever and as often as needed to perform this covenant.

- D. Under each such schedule the city shall be obligated to pay and will pay from its other funds to the water utility fund a fair and equitable amount for any and all services, facilities, commodities, and benefits furnished to the city or any of its departments by the utility.
- E. It will at all times maintain books of account adequate to show all receipts and disbursements of the city respecting the utility and the application of such receipts to the purposes of the several accounts of the water utility fund as provided in § 16-0803 hereof, which books of account shall be open to inspection at any reasonable time by the holder of any revenue bond, and it will furnish a certified transcript therefrom of any information which any such bondholder may request, upon payment of a reasonable fee therefor.
- F. At the close of each fiscal year, being the 12-month period ending on June 30th of each year as provided in the statutes of the state of North Dakota, it will cause an operating statement to be prepared and included in the annual financial statement of the city required by the provisions of § 40-16-05 of the North Dakota Century Code, showing the financial condition and the receipts and disbursements of the water utility fund and of its several accounts during each fiscal year, and a copy of such statement will be furnished to the original purchaser of each issue of revenue bonds and also to any holder of such bonds upon request. The city will also cause the books of account of the utility to be audited by a certified public accountant as soon as may be after the close of each fiscal year and will furnish a copy of the report of each such audit to the original purchaser of each issue of revenue bonds, and will make the same available upon request to any holder of such bonds. The cost of all such accounting and audits shall be paid as an operating expense of the utility.
- G. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by all causes against which similar properties are customarily insured by prudent owners thereof, and will carry adequate public liability insurance against any claim of personal injury or property damage which is or may become a charge against the revenues of the utility, and will cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the city and the holders of said revenue bonds, and such insurance and fidelity bonds will be carried with the state fire and tornado fund or such other reputable and responsible insurers as shall be selected by the board of city commissioners, and the expense of all such insurance and bonds shall be paid as an operating cost of the utility, and the city will use the proceeds thereof, immediately upon the occurrence of any loss or damage covered thereby, to restore such loss or damage.
- H. The city will use due diligence in the selection and supervision of employees charged with the operation of said utility and the handling of the funds

thereof and in the operation and maintenance and the collection of the revenues of said utility, to the end that the properties thereof shall be kept in good and efficient operating condition and the revenues shall not be lost or mishandled. Bills for water service will be presented to all customers not less often than quarterly, and if any bill is not paid within 15 days from the due date thereof, the supply of water to the premises involved shall be discontinued, and such premises shall not be reconnected until full payment of all charges due for water service together with penalties.

- I. The city and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the bonds herein authorized which are imposed by law and the ordinances and resolutions of the city, including this ordinance, in force upon the date upon which any of such bonds are issued, and all conditions of the constitution and laws of the state and of such ordinances and resolutions as will provide security for the holders of the bonds issued hereunder are acknowledged to be a part of the city's contract with the holders from time to time of such bonds; provided, that nothing herein shall be deemed to preclude the city from modifying the rates and charges and billing procedures now in effect to any extent which will not impair the sufficiency of the revenues of said utility to comply with the remaining provisions of this ordinance.
- J. The holders of 25% or more in principal amount of each issue of bonds payable from the net water utility revenues which are at any time outstanding shall be privileged and are hereby empowered to institute and maintain, in behalf of the holders of all outstanding bonds of such issue, any suit, action, proceeding at law or in equity for the protection and enforcement of any covenant, agreement, or stipulation herein provided to be performed or observed by the city or its governing body or any of its officers, whether or not any of such bonds are then in default as to the principal and interest, and each and all of the rights and remedies specified and mentioned in §§ 40-35-15 to 40-35-19, inclusive, of the North Dakota Century Code, are hereby acknowledged to be available to the holders of such bonds.
- K. In the event that monies on hand in the revenue bond account and reserve account should be insufficient at any time to pay all principal and interest then due on bonds payable from said accounts, and cannot be made sufficient by transfers of monies from other accounts of the water utility fund, such monies shall be first used to pay the interest then due or to become due on the next succeeding interest payment date on all such then outstanding bonds, and any monies on hand in excess of amounts required for the payment of all such interest shall be applied to the payment of maturing principal on such bonds in order of their maturity dates, earliest maturing bonds first; and such monies shall be applied prorata to the payment of the principal of bonds maturing on the same date.

Source: 1952 Rev. Ord. 16-0805, 910 (1953).

16-0806. Sale, execution, and delivery of bonds.--All bonds issued in accordance with the provisions of this article shall be sold in the manner required by the laws of the state of North

Dakota and shall be prepared for execution in such form as shall be determined by the board of city commissioners; provided, that all such bonds shall be deemed to be negotiable instruments as provided in § 40-35-10 of the North Dakota Century Code, and shall have coupons appurtenant, evidencing the interest payable thereon at the rate or rates specified in the contract of sale thereof, but may be issued in form permitting registration of the ownership of the principal thereof. Pending preparation of definitive bonds, interim certificates or receipts may be issued to the purchaser of any issue of such revenue bonds, in such form and with such provisions as the board of city commissioners may determine, which certificates or receipts shall also be deemed to be negotiable instruments. The bonds of each issue, or the interim certificates or receipts evidencing the same, when prepared in accordance with the foregoing provisions, shall be executed and authenticated by the signature of the president of the board of city commissioners and countersigned by the city auditor, and the interest coupons appurtenant thereto shall be executed and authenticated by the printed, engraved, or lithographed facsimile signatures of said officers, and such bonds, certificates, or receipts shall then be delivered to the purchaser upon receipt of the purchase price specified in the contract of sale thereof, and the purchaser shall not be obligated to see to the application of the purchase price. The officers of the city are further authorized and directed to furnish to the purchaser of each issue of such revenue bonds certified copies of all ordinances, resolutions, and other proceedings of the city with reference to the establishment, improvement, and administration of said utility and the funds thereof and the issuance of said revenue bonds, and such additional certificates and affidavits as to matters appearing on the records in their official custody or otherwise known to them, as may be reasonably required to evidence the legality and marketability of such bonds; and all such certified copies, certificates, and affidavits shall be deemed to constitute representations and recitals of the city of Fargo as to the correctness of all statements therein contained.

Source: 1952 Rev. Ord. 16-0806, 910 (1953).

16-0807. Repealing clause.--All ordinances and resolutions of the city of Fargo which are in any manner inconsistent with the terms and provisions of this article and the amendments to the Revised Ordinances of 1952 affected hereby are hereby amended or repealed to the extent necessary to give full force and effect to the provisions of this ordinance [Ord. No. 910, 1953].

Source: 1952 Rev. Ord. 16-0807, 910 (1953).

16-0808. Reserve revenue bond financing--Deficiency levy.--

- A. Pursuant to the provisions of the Home Rule Charter of the city of Fargo, the city is hereby authorized by resolution or resolutions of its city commission, to issue revenue bonds of the city to finance the cost of additions or improvements to its water and sewerage utility (the "utility"). Except as otherwise provided herein, all of the provisions of article 16-08, and article 17-01 of the Revised Ordinances of 1965 of the City of Fargo, North Dakota, as amended, and the provisions of chapter 40-35, N.D.C.C., shall apply to bonds issued under this ordinance. In the resolution authorizing the issuance of revenue bonds in anticipation of the collection of the revenues of the utility, the city commission shall establish a reserve for the security of the bonds and may provide that such reserve shall be set aside from the proceeds of the bonds or from any revenues on hand and properly available therefor. The resolution shall also provide that rates, fees and charges for the services, facilities or commodities provided by the utility shall be established, and

revised from time to time when necessary, so that the revenues derived from the utility will at all times be sufficient to pay all normal, reasonable and current costs of the operation and maintenance thereof, and (together with any other monies appropriated therefor) to pay when due the principal of and the interest on the bonds, and to maintain the reserve in the amount required by such resolution. In the event that there shall be at any time a deficiency in said reserve, the city commission shall cause all necessary taxes to be levied, including a tax upon all taxable property in the city for the payment of such deficiency, and such tax shall be subject to no limitation of rate or amount, other than the limits imposed by the Home Rule Charter.

- B. Prior to adoption of the resolution authorizing the issuance of bonds under this ordinance, the city commission shall cause to be published at least once in the official newspaper of the city a notice describing the general nature of the addition or improvement and the estimated cost thereof, and stating that it is proposed to issue bonds to defray such estimated cost and that the resolution authorizing the issuance of such bonds will include a provision for a reserve to be established and maintained from bond proceeds or revenues on hand and available therefor, and that if at any time a deficiency exists in the reserve, the city commission will levy all necessary taxes, including a tax upon all taxable property in the city for payment of such deficiency, and stating that written protests against the issuance of such bonds must be filed in the office of the city auditor within 20 days after the publication of the notice.
- C. If, within 20 days after the publication of the notice required in paragraph (B) hereof, written protests against the issuance of bonds, signed by electors of the city equal in number to at least 20% of the number of voters participating at the last preceding general election held in the city, are filed in the office of the city auditor, the bonds described in the notice shall not be issued. Such protests shall not, however, be a bar to proceeding with the undertaking under the provisions of article 16-08, and article 17-01 of N.D.C.C. If the protests are found to be insufficient or invalid by the city commission at a regular or special meeting occurring within 30 days after the expiration of the time for filing such protests, the city commission may proceed to issue the bonds in accordance with paragraph (A) of this ordinance.
- D. Protests described in paragraph (C) shall contain the date of signature, the signature of the elector, the address of the elector, the age of the elector, and the length of residency within the city of Fargo of the elector. If any of these protest signature requirements are missing from the petition, the protest shall not be counted by the city auditor.
- E. If a tax is ever levied for any deficiency in the bond reserve, the amount thereof shall be restored to the general fund of the city from the net revenues of the utility received in excess of current expenses of operation and maintenance, and current payments of principal and interest on any outstanding revenue bonds for that utility.
- F. The city commission also reserves the right to levy assessments with respect to any improvement, or to establish connection charges and to appropriate part or all of the collections thereof to the sinking fund, established for any

bonds issued pursuant to this ordinance.
Source: 2107 (1983), 2566 (1991).

ARTICLE 16-09

DROUGHT RESPONSE MEASURES

Section	
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16-1901. Procedural definitions.--The following procedural definitions apply to this article:

- A. “Notice of violation”. A notice of violation is a written notice of the violation of an ordinance in this article which identifies the nature of the violation, the section or ordinance allegedly violated and the time of occurrence of the violation, if known.
- B. “Administrative compliance order”. An administrative order is an order issued by the enterprise director which identifies the nature of the violation, the section or ordinance allegedly violated, the time of occurrence of the violation, if known, the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected and ordering that the alleged violator come into compliance with the section or ordinance allegedly violated. The administrative order may provide a time period within which compliance must occur.
- C. “Administrative compliance order with fine”. An administrative order with fine is an administrative order that also provides that the city will impose a civil fine if compliance does not occur within the time provided in the order.
- D. “Order to show cause”. An order issued by the enterprise director issued when there is reason to believe that the violation identified in the administrative order has not ceased or been corrected as required, and

directing the alleged violator to appear before the administrative enforcement board to show cause why further enforcement measures should not be taken or ordered or fees imposed, or both.

Source: 4539 (2006).

16-0902. Declaration of policy.--It is hereby declared that, because of the conditions prevailing in the city of Fargo, the health, safety and general welfare of the city requires that the water resources available to the city be put to the maximum beneficial use of the water resources, that unreasonable use of water and unreasonable methods of use of water be prevented, that waste of water be prevented, that water be conserved to the extent possible and that the reasonable and beneficial uses of water is all in the best interests of the people of the city of Fargo.

Source: 4539 (2006).

16-0903. Drought management plan.--The board of city commissioners, by resolution, may adopt a drought management plan that includes directives for education of the public regarding drought management, voluntary drought management measures and that may further outline the city's program to address drought management throughout the city.

Source: 4539 (2006).

16-0904. Drought management regulations.--The enterprise director is authorized to promulgate regulations describing restrictions and limitations on the use of water as well as affirmative action to be required by persons using water for one or more of the five drought severity phases, approved by a resolution of the board of city commissioners. The regulations may also include a schedule for irrigation or watering of golf courses, gardens, residential, commercial and industrial lawns, and so forth. The regulations may also, for a Phase III, Drought Watch, or more severe drought severity phase, establish special water usage rates and surcharges for use of water by activity or by industry. The regulations approved by the board of city commissioners shall take effect upon a single publication of the regulations in a newspaper of general circulation in the city.

Source: 4539 (2006).

16-0905. Drought severity phases—Declaration.--The level of drought severity, established by the board of city commissioners from time to time, shall be one of the following five phases, listed in increasing order of severity: Phase I - Normal, Phase II – Drought Advisory, Phase III – Drought Watch, Phase IV – Drought Warning and Phase V – Drought Emergency. Phase I, Normal, Drought Severity Phase shall be deemed to be in effect unless another drought severity phase has been declared by the board of city commissioners. The board of city commissioners may declare the particular drought severity phase to be in effect and may identify the effective date for implementation of the restrictions for such phase, as set forth in this article. In establishing the drought severity phase in effect, the board of city commissioners may rely upon the recommendation of the enterprise director or other person designated by the board of city commissioners as having knowledge and expertise in evaluating potential or existing drought conditions. To initiate a particular drought response, the board of city commissioners shall declare a drought severity phase and the effective date for implementation of applicable restrictions for such phase. The board of city commissioners may determine that the declaration of drought severity phase is to take effect immediately. The declaration of the drought severity phase in effect shall be published in a newspaper of general circulation and shall take effect upon such publication of said declaration or the effective date in the declaration. In the case of an emergency declared by the board of city

commissioners, the declaration may be deemed to take effect immediately upon passage, in which case the declaration shall be published in a newspaper of general circulation promptly after the declaration is declared by the board of city commissioners.

The determination by the board of city commissioners as to the drought severity phase to be declared shall be based upon an evaluation of four drought indicators including the Standardized Precipitation Index (SPI), the Palmer Drought Severity Index (PDSI), existing streamflow conditions and existing reservoir storage conditions and upon a finding that three out of the four such indicators establish a given phase. The board of city commissioners may revise the declared drought severity phase, from time to time, as conditions change.

Once a declaration has been made by the board of city commissioners as to the drought severity phase in effect, all persons shall comply with the regulations approved by the board of city commissioners as provided in section 16-0904.

Source: 4539 (2006).

16-0906. Waivers.--The enterprise director shall be authorized to waive any requirements within the approved drought management regulations 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 article. The enterprise director 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. All waivers must be in writing to be valid.

Source: 4539 (2006).

16-0907. Responsibility for enforcement.--The enterprise director is authorized to enforce this article and any regulations approved by the board of city commissioners pursuant to this article.

Source: 4539 (2006).

16-0908. Enforcement procedures.--The following enforcement procedures shall apply to violations of this article, in addition to the procedures set forth in article 1-04 pertaining to administrative enforcement.

A. Non-emergency matters. In the case of violations of this article that do not constitute an emergency, the enterprise director may:

1. Issue a notice of violation;
2. Issue an administrative order; or,
3. Issue an administrative order with fine;

All notices and orders shall be issued to any person who is alleged to be in violation of this article.

B. Emergency matters. In the case of violations of this article that do constitute an emergency situation, the city shall use all remedies, penalties and enforcement powers available under this article without prior notice, but the enterprise director must send notice simultaneously with beginning enforcement action to the person who is alleged to be in violation of this article and advise other persons who the enterprise director determines may be affected by the action taken that a hearing will be held within seven days from the date of such action. At the hearing, the administrative enforcement board will determine whether there were

appropriate grounds for the action taken, and whether the action taken should continue.

- C. Administrative compliance orders—Procedure. Persons receiving an administrative order or an administrative order with fee shall have 10 days, or such longer period as the enterprise director allows, to correct the violation. If the violation is not corrected within the required time-frame, the enterprise director shall use all penalties, remedies and enforcement powers available under this article. Any notice or order issued by the enterprise director must be given in the manner required by the administrative enforcement ordinance, article 1-04 of the Fargo Municipal Code.
- D. Administrative compliance order with fee/administrative complaint or citation—Procedure. The enterprise director shall include in the administrative complaint the amount of administrative fee to be paid by the person against whom the citation or complaint is issued. The authorized city employee or representative issuing the administrative citation need not issue an administrative order before issuing an administrative complaint.
- E. Order to show cause--Hearing. In the event the enterprise director has issued an administrative order or an administrative order with fee, if the violation is not corrected by timely compliance, the enterprise director may order any person who causes or allows an unauthorized discharge to show cause before the administrative enforcement board why water service should not be shut off. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the administrative enforcement board regarding the violation, and directing the offending party to show cause before said board why an order should not be made directing the shut off of water service. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing in accordance with the provisions of article 1-04. The hearing before the administrative enforcement board shall be held in the same manner, and under the same rules and procedures as provided in article 1-04.

Source: 4539 (2006).

16-0909. Remedies and enforcement powers.--The city shall have the following remedies and enforcement powers, including all the authority as set forth in article 1-04 of the municipal code regarding administrative enforcement.

- A. Water shut off. The enterprise director or the board of city commissioners may order the shut off of the supply of water to the violator, subject to the procedure as set forth in this article.
- B. Withhold permits. The city may deny or withhold all permits, certificates or other forms of authorization as to any applicant for any permit that is issued by the city. Instead of withholding or denying an authorization, the city may grant such authorization subject to the condition that the violation be corrected. The city may deny or withhold all permits, certificates or other forms of authorization on any land or structure or

improvements owned by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this article or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the permit or other approval is sought is the property where the violation occurred.

- C. Injunctive relief. The city may seek an injunction or other equitable relief in court to stop any violation of this article or of a permit, certificate or other form of authorization granted hereunder.
- D. City attorney's fees and costs--In addition to the fees and penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.
- E. Other remedies. The city shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this article or related provisions.
- F. Remedies cumulative. The remedies and enforcement powers established in this article are cumulative. An administrative enforcement board may hold a single hearing to consider evidence and render decisions on appeals from administrative citations or complaints, orders to show cause or other administrative proceedings involving one or more alleged violators stemming from the same occurrence or series of occurrences.

Source: 4539 (2006).

16-0910. Enforcement--Non-compliance and re-inspection fees.--Any person who is found to have violated an order of the enterprise director 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 offense. A schedule for noncompliance and re-inspection fees to defray the administrative and other costs of monitoring and enforcement of this ordinance may be approved by the board of city commissioners.

Source: 4539 (2006).

16-0911. Other powers.--In addition to the enforcement powers specified in this article, the city may exercise any and all enforcement powers granted to them by North Dakota law.

Source: 4539 (2006).

16-0912. Continuation--Nothing in this article shall prohibit the continuation of previous enforcement actions undertaken by the city pursuant to previous and valid ordinances and laws.

Source: 4539 (2006).

16-0913. Power and authority of inspectors--Right of entry-- Where it is necessary to make an inspection to enforce the provisions of this code, or where the engineers or inspections officer has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this article the engineer or inspections officer is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the engineer or inspections officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the engineer shall have recourse to the remedies provided by law to secure entry.

Source: 4539 (2006).

16-0914. Savings clause--Conflict--In the event that any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

Source: 4539 (2006).