

**ORDINANCE NO. 70**  
**AN ORDINANCE STATING THE WATER AND SEWER DEPARTMENT AS AN  
INDEPENDENT AGENCY OF THE CITY OF MAX -  
REGULATION OF WATER SERVICE AND SEWER SERVICE**

**ARTICLE 1 - UTILITY ESTABLISHED -**

7.0101 Water and Sewer Department Established -

A department established and created with the City known as the City Water and Sewer Department. The department shall have general charge of all plants, systems, works, equipment, materials, supplies, sewage disposal plants, lagoons, trunk connections, sewer and water mains and all parts and appurtenances of the foregoing which are used or useful in connection with the collection, treatment and disposal of sewage, water and storm sewers for the inhabitants of this City, subject to all ordinances, rules and regulations.

7.0102 City Water and Sewer Department to be Independent Agency -

All of the business affairs of the said City Water and Sewer Department shall be conducted, insofar as is possible within the ordinances of the City, as a completely separate and distinct division of the City. Separate and distinct accounts shall be set up on the books of the city auditor. These accounts shall at all times reflect the true condition of the Water and Sewer Department, as distinct from the remaining business of the City and shall be so devised as to disclose the annual profit or loss of the department. The funds of the department shall be held in the custody of the city auditor and disbursed upon warrant in the same manner as other funds, By the Water and Sewer Department shall be given credit upon the books of the City for any and all funds paid by it into the City Treasury and shall be charged on the books of the City with all payments made by the City on its behalf. Transfers from the Water and Sewer Department to the General Fund or any other fund of the City shall not be made except upon order of the governing body (Source: North Dakota Century Code Section 40 - 33 - 12) nor shall transfer be made from City funds to the Water and Sewer Department without like order.

7.0103 Scope of Utility -

The properties of the City Water and Sewer Department and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the City's Water and Sewer Utility Fund and all moneys to be derived thereafter from the services, facilities, products and by-products of said utility, shall be and are hereby appropriated and dedicated to the purpose of insuring the public health, safety and welfare by furnishing and making available water and sewerage service to the City and its inhabitants and industries. Said utility shall at all times be under the management and control of the governing body of the City and shall by it be operated and maintained in

such manner as to provide its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

7.0103 Service Charges - Use of -

The City Water and Sewer Department shall at all times be so operated and maintained, and rates and charges for its services, facilities, products and by-products shall be such, as to make the utility self-supporting and self-perpetuating. Such charges from time to time imposed and collected shall be made and kept adequate to pay as incurred all costs of operation and maintenance of said utility and to establish and maintain reasonable operating reserves; to produce net revenues which shall be sufficient at all times to pay promptly the principal and interest due on all obligations of the City incurred for the improvement, extension and enlargement of said utility, to the extent that such obligations are according to their terms payable from said net revenues, and to establish and maintain adequate reserves for the security of said obligations. Charges may be set to produce surplus net revenues, over and above current principal, interest and reserve requirements in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other City functions, subject to the limitations now or hereafter prescribed by law.

7.0105 Policy on Improvements - Extensions -

It is hereby declared to be the policy of the City, subject to such modifications as shall be deemed by the governing body to be required by special circumstances in individual cases, and subject to such modifications as may hereafter be made by ordinance amendatory hereof or supplemental hereto, that the cost of capital improvements, enlargements and extensions of said utility shall be paid in the following manner:

7.0106 Utility Fund - Separate Accounts -

All moneys received by the City in respect of the services, facilities, products and by-products furnished and made available by the City Water and Sewer Department, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipt and returns received from any investments of such earnings, shall be paid into the treasure of the City and kept in a special fund which shall be permanently maintained on the books of the City, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below, and such revenues shall be administered and accounted or as follows:

1. Operation and Maintenance Account -
2. Principal and Interest Account -
3. Revenue Bond Account -
4. Improvement Warrant Account -
5. Replacement and Depreciation Account -
6. Moneys on Hand - The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.
7. Additional Accounts - The city also reserves the right to create additional accounts within the Water and Sewer Utility Fund for the purpose of segregating any surplus net revenues which may be pledged and appropriated to the payment of obligations hereafter issued to finance improvements, enlargements or extensions of said utility. Moneys on hand in any such account shall at all times be available for and used to the extent necessary to meet the current requirements of all of the foregoing accounts except the Replacement and Depreciation Account.

## **ARTICLE 2 - WATER SERVICE -**

### **7.0207 Separate Connections for each Premise - Exception -**

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

### **7.0210 Water Service - Construction of - Maintenance of by Owner -**

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

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, which may be acquired in the future in like manner, shall likewise be maintained by the owner. Services means the service line running from the point of connection with the city main to owner's premises.

7.0211 Water Meters - Checked - Fees -

Every consumer of water shall provide a suitable place where a water meter can be installed and each consumer shall supply, maintain and change when necessary, the same, and if at any time the consumer desires to have the meter tested for accuracy, the same shall be done by the city and a fee of \$10.00 charged therefore to the consumer if the meter registers 98% or more accurate. If the meter registers less than 98% accurate, it shall be replaced and the fee refunded.

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

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

7.0214 Users Consent to Regulations -

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

7.0215 Regulations Governing Service -

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

1. Shutting Off Water - Who Authorized.

No person except an authorized employee of the water department shall shut off or turn off the water at the curb cock to any premises without first obtaining permission from the water department.

2. City Reserves Right to Shut Off Water - Notice.

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

3. Non-liability of City for Deficient Supply or Quality of Water.

It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.

4. Shutting Off Water -

The water department shall make a charge for turning on of services.

5. Entrance and Access to Premises by Waterworks Employees.

Authorized employees of the water and sewer department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.

6. Fire Hydrants - Who May Open.

No person except City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the water superintendent.

7.0220 Use of Water During Fire - Unlawful -

It is hereby declared to be unlawful for any person in this City or any person owning or occupying premises connected to the utility to use or allow to be used during a fire any water from said utility except for the purpose of extinguishing said fire; and upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes during said fire.

7.0222 Rates and Charges -

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

7.0223 Rates and Charges - Liability for -

The owner or owners of all real property in the City furnished water or sewer service or service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant may be. Owners of premises where water or sewer service is supplied shall notify the water or sewer department or the city auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the city auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the city auditor to certify to the county auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

7.0225 Excavators -

No person, firm or corporation shall excavate in or on any street, alley or public place for the purpose of installing any water and/or sewer connection until they have complied with the provisions of Sections 3.0220 through 3.0227 of Chapter 3 of these ordinances.

7.0226 Restriction of Use of Water -

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

**ARTICLE 3 - REGULATION OF SEWER USE -**

7.0301 Purpose -

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

7.0302 Definitions -

Unless the context specifically indicates otherwise, the meaning of the terms used in the article shall be as follows:

7.0303 Use of Public Sewers Required -

*Add Maintenance to*

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

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

*Sect to Add*

4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within 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 sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, with \_\_\_\_\_ days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) according to the North Dakota plumbing code of the property line.

*Add*

7.0304 When Private Sewage Disposal Permitted

1. Where a public sanitary or combined sewer is not available under the provisions of Section 7.0303 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health.

6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

7.0305 Building Sewers and Connections -

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

7.0306 Use of Public Sewers -

1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the superintendent and the North Dakota State Department of Health.

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

a. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

b. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

c.. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.

d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, lass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

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



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.

7.0307 Damage to Sewer Works Prohibited -

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

7.0308 Powers and Authority of Inspectors -

1. The superintendent and other duly authorized employees of the City 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 ordinance.

7.0310 Penalties -

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

7.0311 Validity -

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

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

**ARTICLE 4 - SEWER SURCHARGE -**

7.0401 Purpose -

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

2. The definitions set forth in Section 7.0302 of this chapter shall also apply to this article.

7.0402 Determining the Total Annual Cost of Operation and Maintenance -

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

**ARTICLE 5 - ADOPTION OF STATE PLUMBING CODE -**

7.0503 Adoption -

To promote and protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, Consisting of rules and regulations governing plumbing work.

5.0502 Plumbing Code - Enforcement of Provisions -

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

ATTEST:   
City Auditor

APPROVED:   
Mayor

First Reading : 2 - 3 - 03  
Second and Final Passage: 3 - 3 - 03

Ordinance 70, Section, 7.0222 Rates and Charges

Water and sewer rates shall be adjusted from time to time by resolution of the governing body and the City reserves the right to change the rates from time to time as it deems best. The resolution fixing water and sewer rates and charges shall be kept on file in the office of the city auditor and shall be open for public inspection.

Collection policy shall change from time to time by action of the governing body and the City reserves the right to change such policy as it deems best. The policy shall be kept on file in the office of the city auditor and shall be open for public inspection.

Any portion of past due balances, including late fees, shall be deemed delinquent, resulting in disconnection of service, if not paid within the allotted time stated on a past due notice.

A \$150.00 deposit is required for connection of new water accounts. If service is disconnected, a fee of **\$50.00** for re-hookup and a **\$150.00** deposit will be required in addition to all past due water bills and related fees being paid in full prior to service being continued.

Recipients of the City of Max Water, Sewer, and Garbage Services must have a valid address on file at all times. If any change in that address occurs the City of Max must be notified immediately.

Amendment will take effect upon final passage and publication.

First Reading: June 19, 2023

Second Reading: June 29, 2023

APPROVED:

  
(MAYOR)

ATTEST:

  
(AUDITOR)

(Seal)



Ordinance No. 70, section 7.0222, Rates and Charges, amended as follows:  
\$150.00 deposit is required for connection of new water accounts with the exception of new water accounts for homeowners. If service is disconnected, a fee of **\$50.00** for re-hookup and a **\$150.00** deposit will be required in addition to all past due water bills and related bills being paid in full prior to service being continued.

Amendment will take effect upon final passage and publication.

First Reading: January 5, 2015  
Second Reading: March 9, 2015  
Final Reading and passage: March 9, 2015  
Publication: \_\_\_\_\_

APPROVED: (Joel Hauf)  
MAYOR

ATTEST: (Katherine Klemetsrud)  
AUDITOR

**ORDINANCE NO. 70 AMENDMENT**  
**AN ORDINANCE STATING THE WATER AND SEWER DEPARTMENT AS AN  
INDEPENDENT AGENCY OF THE CITY OF MAX**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAX  
Ordinance No. 70, section 7.0303, Use of Sewers Required, amended as follows:

Ordinance No. 70, section 7.0303, Use of Sewers Required – Maintenance of by Owner -

4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within 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 sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, with \_\_\_\_ days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) according to the North Dakota plumbing code of the property line. All services shall be installed at the owner's expense and shall be maintained and the sole responsibility of the property owner. Services means the sewer service line running from the point of connection at the city main, the service y or service saddle, to the owner's premises.

This Amendment shall be in force and take effect immediately upon its final passage and publication.

\_\_\_\_\_  
Richard Seklecki, Mayor

Attest:

\_\_\_\_\_  
Katherine Swanepoel, Auditor

Introduction and First Reading: 2-3-2014  
Second Reading and Final Passage:  
Publication Date:

AMENDMENT TO ORDINANCE NO.70  
AN ORDINANCE STATING THE WATER AND SEWER DEPARTMENT AS AN  
INDEPENDENT AGENCY OF THE CITY OF MAX-REGULATION OF WATER  
SERVICE AND SEWER SERVICE

Section 7.0220 Rates and Charges was Amended by Moreno and second by Swanson on July 10, 2006.

\$45 deposit is required for connection of new water accounts.

\$45 deposit is required for reconnection of a delinquent account which has been disconnected due to non payment.

First Reading July 10, 2006

Second Reading August 7, 2006

Final Reading and passage August 7, 2006

APPROVED: (Jody Gullickson)  
Mayor

ATTEST: (Dena Guenther)  
Auditor

Ordinance No. 70, section 7.0222, Rates and Charges, amended as follows:

\$45.00 deposit is required for connection of new water accounts with the exception of new water accounts for homeowners. \$45.00 deposit is required for reconnection of a delinquent account which has been disconnected due to non-payment.

Amendment will take effect upon final passage and publication.

First Reading: August 4, 2008

Second Reading: September 8, 2008

Final Reading and passage: September 8, 2008

Publication: September 18, 2008

APPROVED: (Jody Gullickson)  
MAYOR

ATTEST: (Tonya Balaban)  
AUDITOR