



**CLAY COUNTY WATER & SEWER DISTRICT**  
**WATER AND SEWER**  
**ALLOCATION ORDINANCE**

**75 RIVERSIDE CIRCLE, SUITE 2**  
**HAYESVILLE, NC 28904**

**CLAY COUNTY, NORTH CAROLINA**

**ADOPTED: 05-05-2022**

# CLAY COUNTY WATER AND SEWER DISTRICT

## WATER AND SEWER ALLOCATION ORDINANCE

### 1. TERM AND APPLICABILITY OF ORDINANCE

- A. This ordinance shall control the approval of new water and sewer connections to the extent specified herein. This ordinance shall control all allocations made to the Clay County Water and Sewer District. The Codes remain in full force and effect.

### 2. AMOUNT OF WATER AND SEWER WHICH MAY BE ALLOCATED

- A. **Annual Amount Which May be Allocated:** The amount of water or sewer available for allocation and attributable to any designated calendar year during the remaining term of this ordinance shall be 500 gallons per day for residential uses and 2,500 gallons per day for non-residential uses. The County shall always reserve at least 5,000 gallons per day of the County's water and sewer capacity.

- B. **Determination of the Amount of Water and Sewer to be Allocated and Deducted if a Request is Granted:** The water and sewer usage predicted for each application is deducted from the available water and sewer availability and shall be determined by the following means:

- i. **Deductions for Subdivision Approvals:** When an application for water and sewer service is proposed and the residential subdivision is approved, the Director of Clay County Water and Sewer shall subtract an amount of water and sewer from the available proposed availability which reflects the projected amount of water and sewer required when all residences in the proposed subdivision phase are fully constructed and occupied. A determinant of 500 gallons per day per buildable unit shall be used to compute allocations needed. A single phase in a residential subdivision shall not exceed 50 units per calendar year.
- ii. **Deductions for Other Approved Requests Including but Not Limited To Commercial, Retail, and Industrial:** When an application for water and sewer service to the proposed establishment is approved, the Director shall subtract an amount of water and sewer from the proposed availability which reflects the projected amount of water and sewer required as represented by occupancy type as defined in North Carolina Administrative Code 15A NCAC 02T.0114.

### C. Designation of Time from Which Allocation is Made:

- i. An approval of water and sewer service by the Director shall always be attributed to the time span in which it was approved.
- ii. An approval of water and sewer service by the Clay County Water and Sewer District Board (hereinafter referred to as "Board") shall ordinarily be attributed to the time span in which it is approved; however, the Board may designate that a particular approval of water and sewer service shall be attributed to the available allocation from another time span within the term of this resolution or may apportion the allocation over an eighteen (18) month

period for residential applications and thirty six (36) month period for non-residential applications.

- D. **Water and Sewer Not Used at the End of the Time Span:** Any unused allocation from a prior eighteen (18) month period for residential and a thirty six (36) month period for non-residential shall revert back to the County allocation reserve.
- E. **Water and Sewer Shortage Declarations:** When a water and/or sewer shortage is declared by the Director, the Board may suspend its consideration and approval of any new water and sewer applications for the duration of the shortage, it may direct the Clay County Water and Sewer District to suspend its consideration or approval of any new water and sewer applications until further action by the Board.
- F. **Adjustment of Water and Sewer Availability:** Each year while this ordinance is in effect, the Clay County Water and Sewer District shall review actual water and sewer usage records to determine whether changes should be made to the allocation allotments for subsequent years either because more or less water and sewer is being used than was predicted. These findings will be presented by the Director to the Board. At any time, the Board may increase or decrease any yearly allocation amount based on actual usage information concerning remaining capacity.
- G. **Applications for Additional Phase of Existing Subdivision:** An Applicant of an Additional Phase of an Existing Subdivision must have thirty percent (30%) of previous allocation for a homeowner account, not a builder's account, completed prior to additional phases to be awarded allocation.

### 3. WHO MAY ALLOCATE WATER AND SEWER

- A. **Allocations by Director:** Until the County has allocated two-thirds (2/3) of the full water and sewer allocation for the year during which the request is made, the Director may approve new applications when the predicted water and sewer usage is (500) gallons per day or less. This shall not include developments of major subdivisions and multi-family projects.
- B. **Allocations by Clay County Water and Sewer District Board (i.e., Board):** Except those allocations which may be approved by the Director, every other request for a new allocation of water and sewer must be approved upon action, by majority vote, of the Board.

### 4. WHAT INFORMATION MUST BE PROVIDED BY AN APPLICANT FOR WATER OR SEWER SERVICE

- A. At the time of applying, an applicant for water and sewer service shall provide the following required assurances:
  - i. The name and address of the applicant;
  - ii. The specific location of the property to be served and its relation to existing infrastructure;
  - iii. The name and addresses of the property owner if the applicant is not the owner of the property;

- iv. If the applicant is not the legal owner of the property, a description of the legal rights of the applicant to apply for and obtain service and proof of those rights, as requested by the Director;
- v. If water and sewer rights have previously been approved for a property and are currently vested, a written relinquishment of previously granted water and sewer rights signed by the owner or other persons with legal authority;
- vi. A site-specific development plan for the property for which service is requested in sufficient detail to enable the county to assess the factors which may be considered under this ordinance; and
- vii. Any technical information needed by the Director to determine compliance with this ordinance or the Water and Sewer Use Ordinance.

**5. CLAY COUNTY WATER AND SEWER DISTRICT BOARD PRIORITIES IN THE ALLOCATION OF WATER AND SEWER SERVICE**

- A. **Requests Considered on a First-Come, First Served Basis.** The Board shall consider water and sewer service to future customers within the County on a “first come, first served” basis. Review by the Board on requests shall be conducted in the order in which completed applications have been tabled to a later date for consideration either at the request of the applicant or by actions of the Board.
- B. **Request for Service Adjacent to Existing Infrastructure Preferred Over Other Requests.** Requests for water and sewer services that capitalizes on existing infrastructure and does not require any extension of the utility system shall be preferred over requests that are not adjacent to existing infrastructure. This includes requests that do not propose utilizing a new pump and/or lift station for the conveyance of wastewater.
- C. **Requests for Service for a Continued Build Out of a Site-Specific Development Plan Preferred Over Other Requests.** Requests that are for the continued build out of a site-specific development plan that already has been approved an allocation shall be preferred over other requests.
- D. **Compliance by Applicant with Other Conditions Required by this Ordinance:** The Board may deny a request because the applicant has not complied with any of the requirements of this ordinance or specific conditions imposed by Board.

**6. ADDITIONAL FACTORS WHICH THE CLAY COUNTY WATER AND SEWER DISTRICT BOARD MAY CONSIDER**

- A. When deciding whether to grant a request for a water and sewer allocation, the Board can consider the following in deciding whether to grant or deny a request for water and sewer service, in addition to the priorities and considerations described in the foregoing paragraphs:
  - i. Any factor which may make the actual use different from the State of North Carolina predicted use based on occupancy;
  - ii. The amount of water and sewage usage in gallons per day previously approved during the calendar year and the amount still left to be allocated for this year;

- iii. Whether in its opinion the application is for land use which is consistent with the County's adopted policies concerning growth and development; and
- iv. Such other factors as any be identified by the Board in its deliberations, which either suggest that a particular application promotes or undermines the public health or safety, or the general welfare of the County.

## 7. CONDITIONS

- A. **The Board may place conditions upon successful application for water and sewer service.** Without limitations and by way of example only, the Board may require the following:
  - i. That an applicant whose property is located within the county must comply with designated development policies and the site by developed pursuant to a site-specific development plan approved by the Board, in order for the property to receive and continue to receive service.
  - ii. That improvements specified within a site-specific development plan such as roads, parks, turn lanes be completed as a condition of a water and sewer allocation.

## 8. APPEAL IF REQUEST DENIED BY DIRECTOR

- A. **Right to Appeal Once.** If the application for a sewer and water allocation is denied by the Director under his or her authority under Section 4, the applicant may appeal once to the Board.
- B. **Process.** If the applicant wishes to appeal the denial of their application to the Board, the applicant must file a notice of appeal in writing within ten (10) days of the denial of the application. The notice of appeal must be delivered to the director who will then deliver the appeal and application to the Board.

## 9. VESTING OF WATER AND SEWER RIGHTS

- A. **Rights are Specific to Property and Owner within Application.** Any vesting of water and sewer rights that is obtained through a successful allocation during the term of this ordinance, vests to the specific property under the specific owner at the time of the application.
  - i. **Rights are Non-Transferable from Specific Property.** Water and Sewer rights may not be transferred from the property designated in the application to a different piece of property, even if for the same or similar site-specific development plan.
  - ii. **Rights are Non-Transferable from Specific Owner.** The water and sewer rights may not be transferred from one owner to another. A successful allocation is granted to a specific owner for a specific piece of property and cannot be transferred if a new owner takes over said property. The new ownership must re-apply for an allocation.
  - iii. **Reverts back to Clay County Water and Sewer District if Allocation Not Needed.** If the existing site-specific development plan with an approved allocation no longer needs the water and sewer services, then that capacity will revert back to the Clay County Water and Sewer District. A new

allocation will need to be applied for and approved in order to restore the water and sewer services to the specific property.

- B. Payment of Fees.** A fee paid pursuant to the allocation is issued by the Clay County Water and Sewer District.
- i. **Fees are Non-Transferable to Another Property.** A fee paid pursuant to this paragraph may not be transferred from one approved property to another property.
  - ii. **Fees are Non-Transferable to Another Property Even if Under the Same Ownership.** A fee paid pursuant to this paragraph may not be transferred from one property to another, even if both properties are owned by the same individual or entity. Each site-specific development will require its own individual allocation which will have its own individual fee.
  - iii. **Fees for Project with Existing Lift Station.** Upon Board approval of the application, a fee in the amount of 0.15 per gallon per day shall be charged for any additional flow for any and all projects/properties which have an existing lift station which can accommodate the flow received from the proposed project expansion as determined by an approved engineer. This allocation fee will guarantee capacity for the project for the thirty six (36) month non-residential time period at which point the project should have a certificate of occupancy from the building department. In the event all requirements are not met within the 36 month time frame, all allocated capacity will be reclaimed by the Clay County Water & Sewer District and no refund of fees will be given.
- C. Initial Vesting Period.** If the applicant pays said fees for the approved site-specific development plan, water and sewer capacity may be assigned. The assignment shall expire and lapse for all construction that permits have not been issued within 18 months of Board allocation approval for all residential applications and 36 months of Board approval for all non-residential applications. An extension may be requested in accordance with Section 4 of this ordinance but shall not exceed twelve (12) months.
- D. Lapse of Vesting After Initial Vesting Period.** Any applicant granted the right to connect to the County's water and sewer system must obtain all needed development permits within the initial vesting period or said approval will expire and the allocated water and sewer usage shall return in the water availability for redistribution. For purposes of this section the term "developments permits" shall mean the following:
- i. In the case of a residential development project, all permits required for the physical development of land, plus those permits necessary for the building. This may include the following:
    1. A zoning permit; or
    2. A building permit

- ii. In the case of a commercial development project, all permits required for the physical development of the land, plus those permits necessary for the building. These may include the following:
  - 1. A zoning permit; or
  - 2. A building permit

**10. WATER AND SEWER REPORTS**

- A. Reports concerning the number and predicted volume of each water and/or sewer connection request approved during the term of this resolution shall be provided to the Board in such form and frequency as they might request.

**11. THIS ORDINANCE SHALL BECOME EFFECTIVE UPON ADOPTION**