

FRANKLIN COUNTY  
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. To the extent its provisions create any conflict with the Franklin County Water and Sewer Ordinance or the Unified Development Ordinance (UDO), this ordinance shall supersede and control. To the extent the provisions of this ordinance do not conflict with or otherwise supersede the Franklin County Water and Sewer Ordinance, those 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 50,000 gallons per day for residential uses and up to 250,000 gallons per day for non-residential uses which hereafter referred to as the “water and sewer census”. The County shall always reserve at least 250,000 gallons per day of its available water and sewer allocations.
- 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 and thus deducted from the available water and sewer from the year(s) to which it is attributed shall be determined by the following means:
  - I. Deductions for Subdivision Approvals: When an application for water and sewer service to a proposed residential subdivision is approved, the Director of Public Utilities (“the Director”) shall subtract an amount of water and sewer from the available water/sewer census which reflects the projected amount of water and sewer required when all residences in the proposed subdivision phase are fully constructed and occupied. A factor of 250 gallons per day per buildable unit shall be used to compute allocation needed. A single phase in a residential subdivision shall not exceed 50 units per approval per calendar year. All subdivision approvals must meet the criteria as set forth in the Franklin County Unified Development Ordinance (UDO) Section 29-7 and Franklin County Water and Sewer Ordinance.
  - II. Deductions for other approved request including but not limited to Commercial, Retail, and Industrial: When an application for water and sewer service to a proposed establishment other than a residential dwelling is approved, the Director shall subtract an amount of water

and sewer from the available water/sewer census which reflects the projected amount of water and sewer required as represented by occupancy type and defined in the North Carolina Administrative Code 15A NCAC 02T.0114.

- c. Designation of Year from Which Allocation is Made.
  - I. An approval of water and sewer service by the Director shall always be attributed to the calendar year in which it was approved.
  - II. An approval of water and sewer service by the County Commissioners shall ordinarily be attributed to the calendar year in which it is approved; however, the County Commissioners may designate that a particular approval of water and sewer service shall be attributed to the available allocation from another year within the term of this resolution or may apportion the allocation over a two (2) year period.
- d. Water remaining at End of Year. Any unused allocation from a prior calendar year may be made available in any subsequent calendar year(s).
- e. Water Shortage Declarations. When a water shortage is declared by the Governing Body of Franklin County, the State of North Carolina, or by any of Franklin County's water suppliers, the County Commissioners may suspend its consideration and approval of any new water and sewer applications for the duration of the water shortage, and it may direct the Public Utilities Department (hereafter, "the Department") to suspend its consideration or approval of any new water and sewer applications until further action by the County Commissioners.
- f. Adjustment of Water/Sewer Census. Each year while this ordinance is in effect the Utility Advisory Committee 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 Franklin County Board of Commissioners. At any time, the County Commissioners may increase or decrease any yearly allocation amount based on actual usage information concerning remaining capacity.

### 3. WHO MAY ALLOCATE WATER & 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 five thousand (5,000) gallons per day or less. This shall not include developments requiring Planning Board approval for major subdivisions and multi-family projects.
- b. Allocations by County Commissioners. 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 Franklin County Board of County Commissioners. All request except those approved by the

Director must first receive recommendation by the Utility Advisory Committee before being presented to the County Commissioners for consideration.

4. **WHAT INFORMATION MUST BE PROVIDED BY AN APPLICANT FOR WATER OR SEWER SERVICE.** At the time of application, an applicant for water and sewer service shall designate and describe the following and provide all required assurances. There shall be no appeal of the Director's denial of an application. An applicant must provide the following information:
  - a. The name and address of the applicant;
  - b. The specific location of the property to be served and its relation to existing infrastructure;
  - c. The name and address of the property owner if the applicant is not the owner of the property;
  - d. 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;
  - e. If water or 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 to do so;
  - f. 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
  - g. Any technical information needed by the Director to determine compliance with this ordinance or the Water and Sewer Use ordinance.
5. **COUNTY COMMISSIONERS PRIORITIES IN THE ALLOCATION OF WATER AND SEWER SERVICE.**
  - a. Requests considered on a First-Come, First-Served Basis. The County Commissioners shall consider water and sewer service to future customers within the County on a "first-come, first-served" basis. Review by the Utility Advisory Committee on requests shall be conducted in the order in which completed applications have been received by the Public Utilities Department, unless a case has been tabled to a later date for consideration either at the request of the applicant, by action of the Utility Advisory Committee, or by action of the County Commissioners.
  - b. Requests for Service located within the incorporated limits of a Town served by the County.
  - c. Request for Service adjacent to existing infrastructure preferred over other requests. Requests for water and sewer service that capitalizes on existing infrastructure and does not require and extension of the utility system shall be preferred over other requests.

- d. Requests that are located outside of a Water Supply Watershed as identified on the County's Official Zoning Map, unless existing utilities are adjacent.
- e. Requests that are the for the continued build out of a site-specific development plan.
- f. Requests that do not propose utilizing a new pump and or lift station for the conveyance of wastewater.
- g. Compliance by Applicant with other conditions required by this ordinance, the Unified Development Ordinance and the Water and Sewer Ordinance. The County Commissioners may deny a request because the applicant has not complied with any other requirement of this ordinance, the Unified Development Ordinance, Water and Sewer Ordinance and applicable Town Ordinances.

6. **ADDITIONAL FACTORS WHICH THE COUNTY COMMISSIONERS MAY CONSIDER.** When deciding whether to grant a request for water and sewer allocation, the County Commissioners can consider the following in deciding whether to grant or deny a request for water or sewer service in addition to the priorities and considerations described in the foregoing paragraphs:

- a. Any factor which may make the predicted actual use different from the State of North Carolina predicted use as based on occupancy;
- b. The amount of water and sewer usage in gallons per day previously approved during the calendar year and the amount still left to be allocated for the year;
- c. Whether in its opinion the application is for a land use which is consistent with the County's adopted policies concerning growth and development, and
- d. Such other factors as may be identified by the County Commissioners 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.** The County Commissioners may place conditions upon a successful application for water and sewer service. Without limitation and by way of example only, the County Commissioners may require:

- a. That an applicant whose property is located within the limits of, or the extra-territorial jurisdiction (ETJ) of the Town of Franklinton or the Town of Youngsville must comply with designated development policies of the Towns, and/or the site be developed pursuant to a site-specific development plan approved by the Towns, in order for the property to receive and continue to receive service.
- b. That improvements specified within a site-specific development plan such as roads, parks, turn lanes be completed as a condition of water and or sewer allocation.

8. VESTING OF WATER AND SEWER RIGHTS.

- a. Rights Vest to Property, not Applicant. Any vesting of water rights which is obtained through a successful application during the term of this ordinance vest to the property itself for the specific project rather than to the applicant personally. Therefore, any change in ownership or change in legal rights subsequent to approval shall not affect the vesting of the water and sewer rights, the time periods described herein, or the payment of retention of required fees.
- b. Rights not Transferrable. Water rights may not be transferred from the property designated in the application to a different piece of property, even for the same or similar site specific development plan.
- c. Initial Payment of Fees. A twenty-five percent (25%) non-refundable deposit of the required Utility Acreage Fee for the number of approved lots shall be paid in the form of a cash deposit and submitted to the Department of Planning and Inspections within fifteen (15) days of Board of Commissioner allocation of utilities. The Utility Acreage Fee deposit shall be credited towards the required Utility Acreage Fee collected at final plat pursuant to Section 28-4, (C), Final Plat of the UDO in accordance with the approved phasing plan. If later development phases are cancelled or delayed beyond the approved phasing plan, the deposit shall be forfeited and allocation of utilities withdrawn by the County
  - i. Fees are Non-Transferrable to Another Property. A fee paid pursuant to this paragraph may not be transferred from one property to another property.
  - ii. Fees May not be Transferred to Another Property on the Same Property. A fee paid pursuant to this paragraph may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined (UDO Section, 28-4, (B), (8), from the plan which has been approved.
- d. Initial Vesting Period. If an applicant pays the twenty-five percent (25%) deposit of the utility acreage fee for the approved site specific development plan, water and sewer capacity may be assigned. The assignment shall expire and lapse for all construction for which certificates of occupancy and or a final plat has not been recorded within twenty-four (24) months of Board of Commissioner allocation pursuant to Section 28-4, (B), (7), of the UDO. An extension may be requested in accordance with Section 4 of this ordinance but shall not exceed twelve (12) months.
- e. 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 census for redistribution. For purposes of this section the term 'development permits' shall mean the following:

- i. In the case of applicants for water and sewer service for a minor or major subdivision plat approval and recording of the approved plat with the Franklin County Register of Deeds, and any associated zoning and grading compliance certificates via the Franklin County Planning and Inspections Department;
    - 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 some or all of the following: a special use permit, a zoning permit and a building permit.
  - f. Acreage Fee Payment Non-Refundable. The funds paid pursuant to this section are non-refundable, but will be credited against the acreage fee charged at the time of the actual connection to the County's system if the site specific plan is constructed as proposed.
    - i. Acreage Fee Payment Non-Transferrable. The funds paid pursuant to this section are non-transferrable, as described. Such funds may not be transferred as a credit from one property to another property, and they may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change.
    - ii. Adjustment in Acreage Fee at Time of Connection. If the required acreage fee at the time of construction to the County's system is more than the amount which has been previously paid, the remainder of the then current availability fee must be paid before a connection will be allowed. If the required current acreage fee at the time of connection to the County's system is less than the amount which has been previously paid, no refund shall be due.
  - g. Expiration of Vesting. Without regard to the payment of fees and term of vesting, should any applicant whose development project requires a special use permit or zoning permit allow the special use permit or zoning permit to expire, the applicant's water and sewer rights will also immediately expire. Likewise, should any applicant whose development project requires a building permit allow the building permit to expire, the applicants water and sewer rights will also immediately expire.
- 9. Monthly Water Reports. Reports concerning the number and predicted volume of each water connection request approved during the term of this resolution shall be provided to the Utility Advisory Committee in such form and frequency as they might request.
- 10. REIMBURSEMENT AGREEMENTS – For water and sewer facilities constructed by private entities and individuals, which shall become the property of, and operation and maintenance responsibility of the County, the County may enter into a reimbursement agreement upon written request from the entity or individual constructing the addition subject to the following conditions:
  - a. The county will reimburse, private entities or individuals, for increasing the size of utilities for future growth that will benefit the county utility users

- b. Reimbursement will be calculated based on an engineer's estimate as a not to exceed cost. The not to exceed costs will also include the proportionate cost of design and engineering of the upsizing. Reimbursement will be in the form of credit from system development fees or direct payment to the developer from the utility fund.
    - i. Any item referenced in the utility department Capital Improvement Plan can be eligible for a reimbursement agreement
  - c. Water Facilities – only main sizes eight (8) inches in diameter or larger will be eligible for reimbursement
  - d. Waste Water Facilities – only gravity main sizes eight (8) inches in diameter or larger; force mains six (6) inches or larger, and pump stations 80 GPM or larger will be eligible for reimbursement
11. This Ordinance shall become effective upon adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2018.