

Town of Clayton

Policy for Evaluating and Reserving Utility Allocations

I. Foundation

- A. The Town of Clayton has invested substantial capital in the infrastructure necessary to support a growing, prosperous, and healthy community. Water supply and wastewater treatment capacity are among the most important elements of this infrastructure.
- B. The judicious allocation of these resources in conformity with adopted goals and priorities serves to shape the community consistent with the articulated vision to become the “Premier Community for Active Families.”
- C. The Town Council for the Town of Clayton has acted to adopt certain goals that are useful tools to successfully evaluate applications for allocation of public resources so that the character of the community shall be consistent with its vision, values, and plans.

The following community goals, as established by the Town Council, shall be considered when evaluating requests for utility allocations:

- Value for Taxes and Public Fees
- Business Community: Diverse and Profitable
- Regional Service Center

In accordance with a premise of the “Town of Clayton Strategic Growth Plan” utility allocations should support and maximize the concept of:

- Increasing the Town’s property tax based revenues by the expansion and improvement of higher valued commercial and industrial land uses.

Consistent with the intent of this policy and other public statements and policies made by the Town Council, the following hierarchy shall apply to evaluation of utility allocation requests:

- Industrial projects and other major employers
- Commercial properties with quality development projects
- Development projects with a mixed-use element
- Additional phases attached to residential projects with a proven record of quality product and economic success

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- Residential projects that include tangible, high quality community amenities
- Residential projects that include diverse products and opportunities
- Residential projects, not otherwise described above

D. Based on analysis of the existing customer base, the Town of Clayton devotes approximately fifty percent of utility capacity to residential flow, thirty percent to industrial flow, and the balance to commercial flow.

II. Policy

A. The Town of Clayton shall endeavor to grant utility allocations such that the existing character of the Town's utility customer base does not become more residential than is currently the case, and it shall seek to increase the diversity of the customer base by increasing the percentage of flow devoted to industrial, commercial, and mixed use development.

The total amount of available capacity and each incremental increase in capacity may be made available to applicants based on the following parameters:

-No more than fifty percent of the total may be allocated to strictly residential development projects.

-At least thirty percent of the total must be reserved for allocation to commercial/industrial projects.

-Projects encompassing mixed use (residential and commercial) elements may be considered for allocation even if such an allocation will exceed the limit established above for residential use.

B. The Town of Clayton may allocate utility service capacity to competing projects based on a demonstrated intent and ability on the part of the applicant to meet adopted Town goals and plans for character and quality of development.

C. The Town of Clayton may deny a utility allocation request if the applicant fails to adequately demonstrate how the project meets adopted Town goals or plans or in the case that the project is deemed to be less supportive of Town goals or plans.

III. Reservation Process

- A. The owner of any project requiring utility service from the Town of Clayton shall submit a written application for an allocation. The application shall be in letter form, addressed to the Town Manager, and shall include detailed information on the amount of capacity necessary to serve the project, the nature of the project, project schedule in relation to consumption of utility capacity, and other supporting information demonstrating how the project serves the needs and interests of the Town of Clayton.
- B. The Town Council shall review for approval all allocations, which require or may require a daily flow allocation of ten thousand gallons or more and/or any allocation made for a land use category from capacity otherwise set aside for a different land use type.
 - 1. Subdivisions, Mixed-use Planned Developments, Special Use Permits. The Town Council shall fully and with deliberation incorporate the evaluation of utility allocation requests into the decision-making process associated with each of the aforementioned review processes. The criteria contained herein for evaluation of utility allocation requests shall be included as elements within the review processes for the accompanying land use application with regard to conformity with Town of Clayton policies and ordinances, planning practices, and consistency with adopted long-range and strategic plans.
 - 2. Allocations requiring Town Council approval, but which do not require other land use regulatory reviews or approvals. The applicant shall include with their letter of application a full description of how their project supports the goals and priorities established within this and related policies and plans.
- C. The Town Manager shall review for approval all applications for utility capacity, which require a daily flow allocation of less than ten thousand gallons for allocations in accordance with the land use allotments, specified in this policy.
 - 1. The Town Manager shall consider the goals articulated by this and related Town policies when reviewing applications for utility allocations. If an application is denied, the Town Manager shall state in writing the reasons for denial of the request.

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2. Appeals process. Any applicant whose application for utility service is denied by the Town Manager and who believes that such denial is inconsistent with the goals and priorities stated by this and related Town policies may appeal the denial for review by the Town Council for final decision as provided in section III, B, 2 above at the next regularly scheduled Town Council meeting.
- D. Utility allocations granted under this policy shall require the requestor to post a deposit for capacity fees within forty-five (45) days of the date the allocation is granted. Failure to post a deposit in timely fashion may result in revocation of the allocation.
1. The required deposit shall be twenty percent (20%) of the total utility capacity fees calculated for the project and shall be held by the Town until issuance of the first building permit on the project.
 2. All utility allocations approved by the Town shall be effective for a period of twenty-four (24) months to start of construction beyond the time shown on the project schedule prepared and submitted by the developer or customer.
 3. Upon request by the applicant and at the discretion of the Town, an allocation may be extended for one twelve (12) month period.
 4. At the final expiration date for an unused allocation, the Town shall rescind the allocation and retain the twenty percent deposit posted for applicable fees.
- E. An allocation holder may relinquish capacity back to the Town.
1. If a project is unsuccessful in obtaining any required Town permit or approval or any State permit or approval, the full deposit paid on utility capacity fees shall be reimbursed without penalty or other withholding by the Town.
 2. If a project is successful in obtaining all required Town and State approvals and holds an allocation for ninety (90) or more days, but relinquishes back to the Town the full amount of allocation within fewer than twenty-four months beyond the scheduled date for start of construction, then ten percent (10%) of the total utility capacity fees due (half of the deposit) shall be

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retained by the Town and the remaining amount of the deposit posted with the Town shall be returned to the applicant.

3. If a project is successful in obtaining all required Town and State approvals and agrees to relinquish the total capacity allocation granted back to the Town within ninety (90) days following receipt of final permit approval from the Town, then the total amount of the deposit on utility capacity fees paid to the Town shall be returned without penalty or other withholding by the Town.
- F. Granting of a utility allocation does not imply or confer approval of any other applications or reviews as may be required by Town Ordinance or policy and does not imply or create any vested right.
 - G. If the Town of Clayton approves an allocation for utility capacity for a project and a permit for such project is ultimately denied by the North Carolina Department of Environment and Natural Resources or other responsible regulatory agency, then the Town of Clayton shall bear no liability for any costs incurred by the applicant, nor bear further responsibility in the matter. In such cases, applicable utility access fees, if previously collected, shall be returned as provided in section III, E, 1.

IV Capacity Accounting

- A. Due to weather related factors, the regulatory environment, and the dynamic nature of wastewater flow and treatment, accounting of available utility capacity is, by its very nature, inexact. The Town of Clayton shall seek to track the amount of capacity that may be available for allocation; however, such reports do not constitute a policy statement, commitment or guarantee on the amount of capacity available for allocation.
 1. The Town Manager shall prepare and incorporate as part of the program established hereunder a schedule of utility capacity available and a list of allocations granted.
 2. The Town Manager shall make at least quarterly reports to the Town Council regarding the status of utility capacities available and allocations granted.

V. Applicability. This policy shall replace previous policies adopted by the Town Council, as noted below.

- A. “Town of Clayton Wastewater Treatment Capacity Allocation Policy” dated February 19, 2001.

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- B. “Town of Clayton Policy Regarding Wastewater Treatment Allocations Granted by Resolution of the Town Council” dated September 17, 2001 and revised June 16, 2003.

Duly adopted this 19th day of July 2004 while in regular session.

Attest:

Jody L. McLeod
Mayor

Sherry L. Scoggins
Town Clerk

Approved as to form:

Bruce Thompson
Town Attorney