

WATER USE POLICY



Town of Ellenboro
North Carolina

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ARTICLE 1 – TITLE AND PURPOSE

1.1 Title

This Policy shall be known under the general title of, referred to, cited as the Water Use Policy for the Town of Ellenboro, North Carolina, and may be referred to as the Water Use Policy.

1.2 Purpose

The purpose of this policy is to promote the public health, safety, and general welfare of the citizens of the Town of Ellenboro. It is further intended to provide for administration and enforcement of the policy and to provide penalties for its violations.

ARTICLE 2 – AUTHORITY AND JURISDICTION

2.1 Authority

This Policy is adopted under the authority granted by North Carolina General Statutes 160A-312.

Wherever any provision of this Policy refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Policy shall be deemed amended to refer to the amended section, or the section that most nearly corresponds to the superseded section.

2.2 Jurisdiction

The provisions of this Policy shall apply throughout the Town of Ellenboro corporate limits and extraterritorial jurisdictions, as may be modified from time to time.

2.3 Severability

Should any section or provision of this Policy be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Policy as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

2.4 Waivers

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this Policy would cause an unnecessary hardship, the Town Board of Alderman may, on recommendation of an Attorney, authorize a waiver to the terms of this Policy only to the extent that is absolutely necessary and not to the extent which would violate the intent of this Policy.

2.5 Amendments

The Town Board of Alderman may from time to time amend terms of this Policy.

2.6 Applications

It is not intended that this Policy repeals, abrogates, annuls, impairs, or interferes with the existing easements, covenants, deed restrictions, agreements, rules, or regulations previously adopted or issued pursuant to law. However, where this Policy imposes greater restrictions, the provisions of this Policy shall govern.

2.7 Abridgement or Modification of Rules

- 1) No promise, agreement, or representation of any employee or agent of the Town shall be binding upon the Town except as it shall have been agreed upon on writing, signed, and accepted by the Board of Alderman.

- 2) Acceptance by the Town may only be accomplished by a majority vote of the Town Board of Alderman, sitting in open session.

2.8 Effective Date

This Policy was originally approved on 8 January 2022. Effective dates to Items, Rates and Fees after January 8 are noted.

ARTICLE 3 – DEFINITIONS

3.1 Word Interpretation

For the purpose of this policy, the following definitions shall be used. Words used in the present tense includes the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not discretionary, while the word “may” is permissive.

3.2 Definitions

Administrator: The Town Mayor of the Town of Ellenboro or any authorized deputy, agent, or representative.

Availability Fee: The fee charged to owners of improved property as authorized by N.C.G.S. 160A-317 as amended August 8, 1989, in lieu of requiring connection to the town water system of an amount not to exceed the maximum periodic service charge for properties which are connected to the town water system.

Commercial User: A user engaged in the purchase or sale of goods or in a transaction or business or who otherwise renders a service. Commercial user shall include any business, commercial, industrial, public, and/or intuitional user.

Cost of Labor and Materials: The actual cost of meters, fittings, pipe, adapters and replacement of paving as well as necessary labor and equipment cost to accomplish installation.

Developed Property: All Property having a habitable residential, commercial, industrial, or institutional structure existing on such property on or before the effective date of this policy.

Easement: An acquired legal right, less than fee simple, for a specific use of land owned by other.

Local Government: The Town of Ellenboro. Rutherford County, North Carolina, acting through its Mayor and Board of Alderman, or other duly authorized representatives.

New Developments or New Subdivisions: Any property developed or subdivided after the effective date of this Policy. The term “developed” as it relates to new developments is defined as any new construction relating but not limited to residential, commercial, industrial, or institutional activity.

Operation and Maintenance Costs: All cost, direct and indirect, not including debit service, but inclusive of expenditures attributable to administration, and replacement of equipment, on a continuing basis which conforms to applicable regulations and assures optimal long-term facility management.

Owner: The property owner of record of the property that is connected to the Town's water system.

Person: Any individual, firm, company, association, society, corporation, or group.

Property Manager: Any individual or company that is hired by a property owner to oversee the day-to-day operations for the owner of record for the property.

Private Sewer: A sewer, which is not owned by the Town of Ellenboro.

Residential User: Any residential dwelling with a meter. It does not refer to multi-family residential dwellings with common meters.

Superintendent: The person or Persons selected by the Town Board of Alderman to carry out the provisions of this Policy.

Tap Fee: All labor, equipment, and materials cost incurred by the Town installing the necessary lines and meter for the owner.

ARTICLE 4 – APPLICATION, FEES AND BILLING

4.1 Application for Services

- 1) Office hours are 9 a.m. to 5 p.m. Monday thru Friday and closed for lunch 1p.m. to 2 p.m. unless otherwise posted on the front door.
- 2) No person, firm, or corporation shall connect with the water system of the Town until they have made application for such connection in writing to the Town.
- 3) We do not accept co-signers or credit references.
- 4) New Customers shall present:
 - a) A government issued picture ID,
 - b) Proof of ownership,
 - c) A rental/lease agreement and:
 - d) A landlord-tenant agreement.
- 5) Property Owner/ Tenant Agreement (**Effective March 1, 2022**)
 - a) Utility accounts must be placed in the property owners name if the property owner has not signed an owner/tenant agreement. If an agreement has been signed then tenants of that property may have the accounts placed in their names. Owners will receive delinquency notices regarding the tenant's account. If the tenant's service is cut-off then the account automatically reverts back to the property owner and the property owner will then be responsible for the balance. Deposits are not required; however, the property owner may require deposits at their own discretion.
 - b) Property owners who have property managers/agents shall submit, in writing, a list of authorized signers to the Town.
 - c) Property Owners/Property Managers/ Agents, by request form, may have water turned on for 5 (five) days with a 500 (five-hundred) gallon maximum for cleaning at no charge. Property Owners/Property Managers/ Agents, who fail to notify the utility clerk at the end of the 5 days/500 gallons shall be billed for the consumption of water used.
- 6) The town will request a voluntary disclosure of the applicant's social security number pursuant to NC General Statute 105A-3(c). The collection of social security numbers and other forms of identification can be used in order to collect a debt through the NC Debt Set-off Program. Customers who remain delinquent for ninety (90) days with a minimum balance of \$50.00 will be submitted to the program in an effort to collect the debt. The Town reserves the right to garnish your earnings until the debt is paid in full.

- 7) The applicant will be required to review and agree to the terms of the Town of Ellenboro Utility Policy.
- 8) The Town reserves the right to reject any application for service that could ultimately be harmful or non-beneficial to the Town.
- 9) See Fee and Rate Schedule for fees.

4.2 Rate Schedule and Tap-On Fee

- 1) All owners will be billed at the rate currently in effect and approved by the Town Board of Alderman of Ellenboro. See Rate and Fee Schedule
- 2) For new construction, water service will start after all fees have been collected and when the owner/contractor has been issued a building permit.
- 3) All existing residential, single and/or multi-family and commercial units shall have its own meter.

4.3 Meter Reading – Billing – Collection

- 1) Bills for water /sewer (where sewer is available) will be calculated in accordance with the Town's published Rate and Fee Schedule then in effect and will be based on the amount consumed for the period covered by meter readings.
- 2) Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the owner of payment.
- 3) Water meters will be read monthly during the second week of each month if possible.
- 4) At request of a property owner, the Town will make a special meter reading for a fee established in the Town's Rate and Fee Schedule.
- 5) Water service will be billed on or after the 25th of each month. Bills are due as of billed date. (Upon receipt)
- 6) A late fee will be assessed if accounts are not paid in full by 5 p.m. on the 24th of the following month. (See Rate and Fee Schedule)
- 7) A non-payment fee will be assessed and water service will be disconnected if payment is not made by 5:00 p.m. on the 3rd of the month. Weekends and Holidays does NOT alter the due date. (See Rate and Fee Schedule)

*Example: Current bill (billed January 25th)
Meter read second week (February)
Last penalty after 5:00 p.m. on February 24th on current bill (January)
Billed on the 25th for February reading
Non-payment fee added 3rd after 5:00 p.m. for January bill
Disconnection of service at shall start at 9 a.m. on /or after the 4th*

- 8) A reconnection charge, as included in the Town's Rate and Fee Schedule, will be assessed if water service is disconnected for non-payment more than two (2) times in a twelve (12) month period. **(Effective February 1, 2022)**
- 9) All active accounts shall be billed at least a minimum monthly charge as specified in the Rate and Fee Schedule, regardless of the consumption.

10) Payment Methods

- a) The Town accepts cash, check or money orders
- b) In person, mail or drop box.
- c) When a returned check is received by the utility office a returned check fee shall be added to the account. The utility clerk will contact the customer by phone or any other reasonable method, giving them 48 hours to pay the check in full. Forms of payment allowed for returned checks are cash, money order, or cashier's check. Personal checks will not be allowed. If payment is not received within the specified time the water will be turned off, at which point a disconnect fee may be added, the account must be paid in full for the water to be turned back on. Once two NSF checks are received from the same customer, their account will be flagged and no personal checks will be allowed thereafter.

- 11) Payments are posted to the oldest unpaid balance first.

4.4 Adjustments

- 1) If the owner believes his bill to be in error, he shall present his claim, in writing, at the Town office before the bill becomes delinquent. Such claims, if made after bill has become delinquent, shall not be effective in preventing discontinuance of service. The owner may pay such bill under protest and said payment shall not prejudice his claim.
- 2) The Town will make special meter readings for a fee established in the Rate and Fee Schedule. If the special reading discloses that the meter was over-read, no charge for the special reading will be assessed.
- 3) Leak Forgiveness

- a) Approval for leak forgiveness is given if one or both of the following evidence is provided:
 - A plumbing invoice or receipts for plumbing materials
 - Confirmation by public works personnel
- b) The leak forgiveness formula is:
Total Sewer Bill (minus) all sewer usage above and beyond the average use.
The average use is determined by averaging the last six months of water usage.
- c) Leak forgiveness will apply to most recent not exceed two consecutive billing cycles.

4) Payment Plan Arrangements

- a) The utility department has discretionary say in whether a customer is granted financial hardship. The basis of the agreement should be an equitable payment arrangement that details the individual customer's obligation and time limits for the account to be made solvent. The final document will be a legally binding contract which authorizes the town to enforce reasonable collections efforts or take legal action if necessary
- b) Payment Plans are only allowed once every 24 months per customer, amounts under \$200.00 are not eligible for payment plans
- c) No customer who has bad credit with the town shall be considered for any financial adjustment
- d) Utility Department staff can allow a customer up to 5 days to make a payment past the cut-off date, should the customer call and request such allowance prior to cut-off. This allowance is only permitted once in a 12-month period.
- e) Any payment adjustments or arrangements made by the utility department prior to the adoption of this policy are considered retroactive and will continue to be honored by utility department.

5) Pool Fill Adjustments

No adjustment of water usage shall be applied to a customer's account due to the filling of a pool. However, additional sewer usage above and beyond the average use may be adjusted off. Customer must call and notify the utility department before filling a pool and after fill up is complete. Customer has 72 hours (3 days). See Rate and Fee Schedule.

ARTICLE 5 – RESPONSIBILITY AND LIABILITY

5.1 Town’s Responsibility and Liability

- 1) The Town may install its meter at the property line or, at the Town’s option, on the owner’s property.
- 2) When two or more meters are to be installed on the same premises, they shall be closely grouped and clearly designated to which it applies.
- 3) The Town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the owner’s premises.
- 4) The Town neither guarantees customers uninterrupted service, nor does it assume any liability for damage to private property due to interruptions in service.

5.2 Access to Premises

- 1) Duly authorized agents of the Town shall have access at all reasonable hours to premises of the owner for the purpose of installing or removing town property, inspecting piping, reading or testing meters or for any other purpose in connection with the Town’s service and facilities.

5.3 Prohibited Activities

Individuals shall not:

- 1) Use or affect the use of fire hydrants. The fire hydrants are for the use of the Fire Department for fighting fires, and are not to be used by any unauthorized person for any purpose without permission from the Town or any authorized deputy, agent, or representative.
- 2) Manipulate tamper or harm in any manner whatsoever any water line, main, or appurtenance or any other part of the water system, including, but not limited to, any testing or inspection device. All meters, meter boxes, pipes, and other equipment furnished by the Town for installing any water connection shall be and remain the property of the Town. No person, firm, or corporation shall turn on any Town water line, tamper with any meter, or hydrant owned by the Town except a qualified employee of the Town, unless written permission shall have been granted by the Town or any authorized deputy, agent, or representative.

- 3) Knowingly make any false statements, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this Policy.

5.4 Change of Ownership

- 1) Property owners shall give notice, in writing, at the Town's office, to discontinue service for a change of ownership.
- 2) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.
- 3) Upon failure to notify in writing of a change of ownership, the current resident will be held responsible for all accrued water charges.
- 4) When a dwelling, located on a property that is serviced by Town of Ellenboro water and/or sewer, is vacant due to the death of the owner the Executor shall notify, in writing, the Town's office.
- 5) When a dwelling, located on a property that is serviced by the Town of Ellenboro water and/or sewer, is vacant due to the owner being displaced in a nursing home or other permanent long-term health care facility the Power of Attorney shall notify, in writing, the Town's office.

5.5 Meter (Water Service) Cut-Off and Cut -On

- 1) Request for water cut-off or cut on should be made by 4:00 p.m. Monday – Friday to the Town's office. Request after 4:00 p.m. shall be settled the next business day.

ARTICLE 6 – TERMINATION OR INTERRUPTION OF SERVICE

6.1 Termination

The Town may terminate for any of the following reasons;

- 1) Refusal by owner to pay and account in full,
- 2) Prevention of fraud or abuse by an owner: and
- 3) Failure of the Owner to comply with any of the provisions of this chapter.

6.1 Interruption

The Town reserves the right to discontinue or interrupt service temporarily for any of the following reasons:

- 1) Emergency repairs:
- 2) Upgrading water infrastructure;
- 3) Insufficient supply;
- 4) Strike, Riot, flood, accident, act of God, or any other unavoidable cause; and
- 5) The direction of public authority.

6.3 Notification

- 1) The Town shall make a good faith effort to notify affected Owners before service discontinued or interrupted as provide above. However, the Owner, by making application for service, agrees to hold the Town harmless from any liability for any damages that may occur due to discontinuance or interruption of service for the above mentioned.
- 2) The Town shall make a good faith effort to notify affected Owners of any higher than average/excessive use of water.

Rate and Fee Schedule

Water/Sewer Rates and Fees effective as of July 1, 2010 unless otherwise noted.

System rates are determined by the wholesale rate of purchased water from the supplier, the Town of Forest City Water System. The rates are set in order to provide proper return to payback the cost of wholesale water, funding for maintenance and general up-keep of the system. The rates are reviewed on an annual basis and are subject to increase.

WATER and SEWER MONTHLY

Basic Monthly Inside Town Limits Water Rate	\$ 15.50
Additional Water Usage (per thousand after the first 2000)	\$ 7.75
Basic Monthly inside Town Limits Commercial Water Rate	\$ 23.25
Additional Water Usage (per thousand after the first 3000)	\$ 7.75
Basic Monthly Outside Town Limit Rate	\$ 29.80
Additional Water Usage (per thousand after the first 3,000 gallons)	\$ 9.90

Basic Monthly Sewer Rate	\$ 28.15
3,001-10,000 per 1000 gallons	\$ 7.22
10,001-50,000 per 1000 gallons	\$ 6.50
50,001-500,000 per 1000 gallons	\$ 5.67

Connect Fee \$ 25.00

Late Payment Fee \$ 5.00

Disconnect/Non-Payment \$ 25.00

Eff. Date February 1, 2022 Reconnect Fee (more the 2 times in 12 month period) \$ 100.00

Special Read /* Reread \$ 8.00

Returned Check \$ 25.00

TAP FEES

Eff. date February 1, 2022 On Side \$ 1,400.00

Eff. Date February 1, 2022 Off Side \$ 1,600.00

Sewer Tap \$ 750.00

Eff. Date February 1, 2022 Tampering with Meter \$ 200.00

Increases by \$200.00 each occurrence / Follows account holder

Removal of Meter \$ 25.00

Placement or Replacement of Meter \$ 25.00

§ 160A-312. Authority to operate public enterprises.

(a) A city shall have authority to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any or all of the public enterprises as defined in this Article to furnish services to the city and its citizens. Subject to Part 2 of this Article, a city may acquire, construct, establish, enlarge, improve, maintain, own, and operate any public enterprise outside its corporate limits, within reasonable limitations, but in no case shall a city be held liable for damages to those outside the corporate limits for failure to furnish any public enterprise service.

(b) A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law.

(c) A city may operate that part of a gas system involving the purchase and/or lease of natural gas fields, natural gas reserves and natural gas supplies and the surveying, drilling or any other activities related to the exploration for natural gas, in a partnership or joint venture arrangement with natural gas utilities and private enterprise. (1971, c. 698, s. 1; 1973, c. 426, s. 51; 1975, c. 821, s. 5; 1979, 2nd Sess., c. 1247, s. 29; 1991 (Reg. Sess., 1992), c. 836, s. 1.)

§ 160A-317. Power to require connections to water or sewer service and the use of solid waste collection services.

(a) Connections. - A city may require an owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the city limits and within a reasonable distance of any water line or sewer collection line owned, leased as lessee, or operated by the city or on behalf of the city to connect the owner's premises with the water or sewer line or both, and may fix charges for the connections. In lieu of requiring connection under this subsection and in order to avoid hardship, the city may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected.

(a4) System Development Fees. - A city may require system development fees only in accordance with Article 8 of Chapter 162A of the General Statutes.

(b) Solid Waste. - A city may require an owner of improved property to do any of the following:

- (1) Place solid waste in specified places or receptacles for the convenience of city collection and disposal.
- (2) Separate materials before the solid waste is collected.
- (3) Participate in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A city may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the city or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the city or its designee, then ownership of these materials is transferred to the city or its designee.
- (4) Participate in any solid waste collection service provided by the city or by a person who has a contract with the city if the owner or occupant of the property has not otherwise contracted for the collection of solid waste from the property.

(c) A city may impose a fee for the solid waste collection service provided under subdivision (4) of subsection (b) of this section. The fee may not exceed the costs of collection.

(d) In accordance with G.S. 87-97.1, when developed property is located so as to be served by a city water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the city water line and the city shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well. (1917, c. 136, subch. 7, s. 2; C.S., s. 2806; 1971, c. 698, s. 1; 1979, c. 619, s. 14; 1981, c. 823; 1989, c. 741, s. 2; 1991, c. 698, s. 2; 1993, c. 165, s. 2; 1995, c. 511, s. 4; 2015-246, s. 3.5(f); 2017-138, s. 4(b).)

§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining identifying information; registration.

(a) **Remedy Additional.** - The collection remedy under this Chapter is in addition to and not in substitution for any other remedy available by law.

(b) **Mandatory State Usage.** - A State agency must submit a debt owed to it for collection under this Chapter unless the State Controller has waived this requirement or the State agency has determined that the validity of the debt is legitimately in dispute, an alternative means of collection is pending and believed to be adequate, or such a collection attempt would result in a loss of federal funds. The State Controller may waive the requirement for a State agency, other than the Department of Health and Human Services or a county acting on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the State Controller finds that collection by this means would not be practical or cost effective. A waiver may apply to all debts owed a State agency or a type of debt owed a State agency.

(b1) **Optional Local Usage.** - A local agency may submit a debt owed to it for collection under this Chapter. A local agency that decides to submit a debt owed to it for collection under this Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must submit the debt through one of the following:

- (1) A clearinghouse that is established pursuant to an interlocal agreement adopted under Article 20 of Chapter 160A of the General Statutes and has agreed to submit debts on behalf of any requesting local agency.
- (2) The North Carolina League of Municipalities.
- (3) The North Carolina Association of County Commissioners.

(c) **Identifying Information.** - All claimant agencies shall whenever possible obtain the full name, social security number or federal identification number, address, and any other identifying information required by the Department from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter.

(d) **Registration and Reports.** - A State agency must register with the Department and with the State Controller. Every State agency must report annually to the State Controller the amount of debts owed to the agency for which the agency did not submit a claim for setoff and the reason for not submitting the claim.

A clearinghouse or an organization that submits debts on behalf of a local agency must register with the Department. Once a clearinghouse registers with the Department under this subsection, no other clearinghouse may register to submit debts for collection under this Chapter. (1979, c. 801, s. 94; 1989 (Reg. Sess., 1990), c. 946, s. 1; 1993, c. 512, s. 4; 1997-443, s. 11A.122; 1997-490, s. 1; 1998-212, s. 12.3A(a), (b); 2010-31, s. 31.8(e).)