

CITY OF SALISBURY

ORDINANCE NO. 2065

AN ORDINANCE OF THE CITY OF SALISBURY FOR THE ADOPTION OF A WATER AND SEWER ALLOCATION MANAGEMENT PROGRAM TO BE ADDED TO THE CODE OF THE CITY OF SALISBURY.

WHEREAS, the City of Salisbury believes that it would be in the best interest of the City to have a means to allocate the City's limited water and sewer capacity so that the following public purposes can be served:

- A. Protect the health, safety, and welfare of the citizens of the City of Salisbury as a lawful exercise of the City's governmental powers, vested to the City by the State of Maryland; and,
- B. Protect the integrity of the City's comprehensive plan and water and wastewater facilities master plan; and,
- C. Ensure adequate water and sewer capacity for current and future development through the responsible allocation, tracking and monitoring of these limited resources; and,
- D. Ensure compliance with §9-512 of the Environment Article of the Annotated Code of Maryland by ensuring that building permits are not issued and plats are not recorded unless or until the water and sewer system is or will be adequate to serve the proposed development; and,
- E. Promote business retention, sound economic growth, and equitable, responsible residential housing strategies; and,
- F. Promote responsible, equitable, development strategies; and,
- G. Require water conservation practices.

NOW THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, in regular session, that Chapter 13.03 is added to the City Code to read as follows:

Chapter 13.03 - Water and Sewer Allocation Management Program

Sections:

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- 13.03.02 Overview
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13.03.01 Legislative Intent. The intent of the Water and Sewer Allocation Management Program is to provide fair and reasonable means and controls to achieve and substantially advance the public purposes which are:

- A. Protect the health, safety, and welfare of the citizens of the City of Salisbury as a lawful exercise of the City's governmental powers, vested to the City by the State of Maryland; and,
- B. Protect the integrity of the City's comprehensive plan and water and wastewater facilities master plan; and,
- C. Ensure adequate water and sewer capacity for current and future development through the responsible allocation, tracking and monitoring of these limited resources; and,
- D. Ensure compliance with §9-512 of the Environment Article of the Annotated Code of

Maryland by ensuring that building permits are not issued and plats are not recorded unless or until the water and sewer system is or will be adequate to serve the proposed development; and,

- E. Promote business retention, sound economic growth, and equitable, responsible residential housing strategies; and,
- F. Promote responsible, equitable, development strategies; and,
- G. Require water conservation practices.

13.03.02 Overview.

- A. The City has limited water and wastewater treatment capacity.
- B. It is necessary for the City to protect its limited water and wastewater treatment capacities and to allocate and monitor the capacities of water and wastewater treatment plants with respect to both existing, pending, and future development within and beyond its jurisdictional boundaries to achieve the continuance of economic development and stability within the City, to ensure that development will not generate water and/or wastewater demands which exceed available water and/or wastewater treatment capacity, and to further require that approved development will meet the goals, objectives, policies, and standards of the City's updated comprehensive plan.
- C. It is necessary for the City to implement water management measures and to place restrictions on existing and pending development approvals with respect to the utilization of water and sewer, so that water and sewer are utilized within a reasonable period of time to prevent speculative acquisition of water and wastewater capacities and to allow water and wastewater treatment capacities to expand and accommodate new economic development.
- D. The Mayor and City Council mandate that the City reviews all development projects and requires Water and Sewer Service Permits to:
 - 1. Ensure that the City's limited water supply and wastewater treatment capacity are capable of handling the area demands placed upon them by future development; and
 - 2. Realize the goal of a balanced community offering quality of life for the residents of the City; and,
 - 3. Contribute to the City's economic stability by encouraging Business Retention and Development.
 - 4. Promote water conservation and increase water and sewer available for allocation

by requiring a minimum level of water conservation practices and providing an incentive for higher levels of water conservation.

- E. All owners of interests in real property in the City are afforded a reasonable use of real property over a period of time subject to City sewer and water capacity.
- F. The classifications utilized herein are reasonably designed to achieve the objectives of the chapter, are based upon rational distinctions, and are not arbitrary, unreasonable, or discriminatory.

13.03.03 Applicability.

- A. There shall be no new Water and Sewer usage or increase in existing usage without an approved allocation as required by this ordinance.
- B. This chapter shall establish the allocation of water and sewer treatment capacities to all development projects requesting water and / or sewer from the City.
- C. This chapter shall apply to all development projects within the jurisdictional boundaries of the City and to any and all development projects outside of the jurisdictional boundaries of the City to which water and sewer services are and have been legally provided pursuant to the City Code.

13.03.04 Exemptions.

- A. The following classes of development projects are exempt from this chapter and will not require water and sewer service permits:
 - 1. Any application filed by the City of Salisbury or any of its agencies required for the health, safety and welfare of the citizens of the City, as a valid exercise of police powers; and,
 - 2. Decks, sheds, fences, porches and patios which do not require any water or sewer capacity; and,
 - 3. Replacement in kind and repairs which do not require any additional water or sewer capacity; and,
 - 4. Improvements to existing sites and/or structures which do not require any additional water or sewer capacity.
- B. The Mayor and City Council hereby provide for and authorize that the following Conditional Exemptions which shall be reviewed for approval or denial by the Water and Sewer Service Committee.
 - 1. Other projects requiring no new water, as determined by the Water and Sewer

Service Committee;

2. Expansion or change of use of existing, lawfully occupied commercial institutional, and industrial buildings provided that said expansion or change of use will result in an increase in water consumption of no more than 0.5 EDU. The amount of water and sewer granted to the applicant shall not exceed an increase of 0.5 EDU over the established current water consumption.
 3. Emergency Exemptions required by exigent circumstances and/or gross hardship upon the following findings by the Water and Sewer Service Committee.
Justification for Emergency Exemption Status is:
 - a. that the emergency was not created by the applicant; and
 - b. that exigent circumstances and/or gross hardship justifies granting the Exemption; and
 - c. that granting the Exemption would not be contrary to the purposes and intent of this Chapter; and
 - d. that granting the Exemption is not contrary to any federal, state or local laws or regulations.
- C. The Water and Sewer Service Committee shall render a written decision within thirty days of approval or denial of an Exemption request.
- D. Developments exempt under this chapter shall demonstrate the basis of Exemption at the time of application for a building permit.
- E. A development project determined to qualify for an Exemption to the requirements of this chapter shall not be, by reason of such Exemption, deemed to have any right to receive any other form of development approval, Building Permit, or grading permit. A development project determined to have qualified for an Exemption to the requirements of this chapter shall be subject to the usual and customary development review and permitting process within the City of Salisbury.
- F. Developments for which an Exemption has been made are subject to the terms and conditions established in this Chapter for the issuance of said Exemption. Changes in use or further development may require application of this chapter to the development project.

13.03.05 Claims of Entitlement.

- A. Claims of Entitlement shall be only those written agreements, excluding executed Public Works agreements, which the City signed to provide a specific number water and/or sewer allocations to a site, location or property. Claims of Entitlement do not include

general references to water or sewer availability, and/or the City's obligation to supply water or sewer to lots, structures, subdivisions or areas annexed into the City.

- B. All property owners claiming a written legally binding entitlement to water and/or sewer service, other than a fully executed Public Works agreement, shall file an application for a Water and Sewer Service Permit as required by this chapter with the Water and Sewer Service Committee no later than 4 PM of the 60th day after the effective date of this Ordinance.
- C. The applicant shall identify in the application all persons having substantial property, financial or other significant interest in the development project.
- D. A development project determined to have an entitlement to a Water and Sewer Service Allocation shall not be, by reason of such entitlement, deemed to have any right to receive any form of development approval, Building Permit, or grading permit. A development project determined to have an entitlement to a Water and Sewer Service Permit shall be subject to the customary development review and permitting process within the City.
- E. A development project determined to have an entitlement to a Water and Sewer Service Allocation shall be awarded water and sewer from the Discretionary Allocation Category as defined by this chapter.
- F. Failure to timely file a Claim of Entitlement for water and sewer service and to exhaust the remedies provided by this chapter will bar all claims from pending development projects for water or sewer service from the Discretionary Allocation Category.

13.03.06 Conditional Entitlement

- A. Those proposed projects that have a fully executed Public Works Agreement and an approved improvements construction plan as of the effective date of the Water and Sewer Allocation Management Program shall be issued a Water and Sewer Service Permit subsequent to adoption of the Program by the City. The number of EDU's contained in the Permit shall be as stated in the Public Works Agreement, and/or as shown on the approved improvements construction plan, or as required to serve the project as approved.
- B. Any property owner that has submitted an improvements construction plan to the City and is in the final stage(s) of approval for the improvements construction plan and/or the Public Works Agreement prior to the effective date of the Program by the City shall have the right to appeal the denial of Conditional Entitlement status for his project. The property owner shall submit a written notification for appeal, in writing, to the Mayor within 30 days after the effective date of the Program by the City. The Mayor and a member of the City Council, selected by the Council, shall hear the appeal and make a final decision, after consulting with the Director of Public Works and the City Solicitor.

13.03.07 Water and Sewer Allocation.

- A. An annual water and sewer allocation for distribution by Water and Sewer Service Permits will be adopted by Resolution of the City Council.
- B. The allocation categories for water and sewer treatment capacities will be based on the following land use categories:
 - 1. Residential
 - 2. Commercial, Industrial, and Institutional
 - 3. Discretionary
- C. In order to obtain an annual allocation, an application for placement on a Master List must be made prior to November 1 of each calendar year. A deposit of a portion of the Capacity Fee shall be made at time of application. The deposit amount shall be established by the Mayor and City Council by resolution which may be amended annually. The deposit will be credited toward payment of the full Capacity Fee when applicable. The deposit shall be refunded without interest should an allocation permit not be issued and also upon expiration or revocation of the Water and Sewer Service Permit.
- D. The allocation percentages for the allocation categories will be established by the Mayor and City Council by resolution and may be amended annually by resolution prior to November 1, upon recommendation by the Water and Sewer Service Committee for the following reasons:
 - 1. A valid exercise of police power in order to maintain and/or to protect the health, safety and welfare of the citizens of the City;
 - 2. To adjust allocations if additional water and sewer resources become available or delayed; or
 - 3. To adjust allocations to more fairly and equitably distribute water and sewer treatment capacities.
- E. Upon the expiration or revocation of any Water and Sewer Service Permit issued under this chapter, the water and sewer treatment allocations committed with that development project shall be returned to the category from which it originated.
- F. All development projects that do not meet the Exemption criteria in §13.03.04 shall have an approved Water and Sewer Service Permit prior to the issuance of a building permit.
- G. A non-refundable administrative fee per application for a Water and Sewer Service Permit will be charged. This non-refundable administrative fee will be calculated annually based on the labor cost, to include all labor overhead costs, divided by the total annual allocation.

- H. Any unused EDU allocations will be reviewed for redistribution within the same allocation category at the quarterly Water and Sewer Service Committee meetings.

13.03.08 Residential Allocation Guidelines.

A. Allocation Criteria. Water and sewer allocations for residential developments, as outlined in Section 13.03.07, shall be determined on an annual basis by the Water and Sewer Service Committee. For purposes of this Section, “eligible for allocation” means:

1. Single-family, townhouse, or multi-unit style development projects must have an approved preliminary or final subdivision plat and must have applied for placement on the Master List by November 1 to be eligible to receive a water and sewer allocation in the next calendar year.
2. Multi-family and Planned District projects, which have not established maximum unit potential by an approved subdivision plat, must have an approved improvements construction plan by November 1, and must have applied for placement on the Master List by November 1 to be eligible to receive a water and sewer allocation in the next calendar year.
3. Development projects consisting solely of the conversion of an existing structure to add new units, which projects, as determined by Salisbury Public Works, may increase water and sewer usage and which may not require an improvements construction plan or subdivision approval, must apply for placement on the Master List by November 1 to be eligible to receive a water and sewer allocation in the next calendar year.

B. Affordable Housing.

1. **Overview.** Ten (10) percent of the residential allocation available for each year will be allocated equally among the affordable housing projects eligible for an allocation, as set forth above. For affordable housing projects to be eligible for an allocation from the affordable housing allocation, the project does not have to meet the November 1 deadline established for other projects. In order for affordable housing projects to be eligible to receive allocations from the remaining 90% portion of the residential allocation, the November 1 deadline must be met.
2. **Eligibility.** Water and sewer will be allocated to those affordable housing projects deemed eligible, in accordance with the procedure outlined in this subsection.
 - (1) The applicant shall provide the Water and Sewer Service Committee with sufficient documentation to show that the proposed project is an affordable housing project.
 - (2) Each eligible affordable housing project shall receive an equal allocation

each year. For a project to be eligible, it shall have an approved final subdivision plat or approved final improvements construction plan, and have demonstrated that the project funding has been obtained prior to allocation.

C. Equal Allocation.

1. **Overview.** Twenty (20) percent of the residential allocation available for each year will be allocated equally among all of the projects eligible for an allocation as set forth above.

2. **Equal Allocation Process.**

- (a) The number of EDUs available for the equal allocation process will be divided by the number of eligible projects. The quotient will be rounded down to the nearest whole number to eliminate any fractions, resulting in a preliminary allocation per project (the Equal Distribution Suballocation, or “EDS”). If the number of projects exceeds the equal allocation EDUs, then each allocation will receive 1 EDU and the pro rata distribution will be adjusted as needed. The preliminary EDS will be compared to the allocation requested for each project. If the amount of the EDS exceeds the amount requested, only the amount requested will be allocated and the remainder will be distributed equally among the other projects still needing an allocation. This process will continue until no further EDUs may be distributed equally, given that fractions of EDUs will not be distributed. Any remaining EDUs will be added back to the residential category for pro-rata allocation pursuant to § 13.03.08.E.
- (b) The Water and Sewer Service Committee will allocate the water and sewer to each project in an open meeting.

D. Pro-Rata Allocation.

1. **Overview.** The remaining seventy (70) percent will be allocated on a pro-rata basis based upon the original number of residential dwelling units in the development project as shown on the most recent approved final subdivision plat or improvements construction plan, as of November 1 of the preceding calendar year.

2. **Pro-Rata Allocation Process.** Once the equal distribution allocation has been made pursuant to § 13.03.08.C, the Pro-Rata Suballocation (or “PRS”) will be distributed to all eligible projects requiring further allocation.

- (a) The PRS percentage will be calculated by first dividing the number of dwelling units per project (as depicted in the Preliminary Subdivision Plat or Final Improvements Construction Plan) by the total of all units from all remaining qualified projects. The total EDUs available for allocation (excluding EDS allocation) will then be multiplied by that percentage to determine the number of EDU’s each project will receive.

- (b) If the PRS exceeds the remaining number of units in the project, the excess PRS will be proportionally redistributed to those projects needing further allocations.

E. Accumulation of Allocations. Projects that have received relatively small allocations of water in comparison to the size of the project and/or the required infrastructure improvements to build the development may request to accumulate water and sewer allocation and not initiate construction until such time as sufficient water and sewer has been granted to make the project economically viable. The accumulation of development allocation is subject to a construction schedule approved by the Water and Sewer Service Committee.

F. Residential Infill Development Projects. Infill projects are eligible for allocation from the residential allocation established in §13.03.07. If allocation is not available from the residential allocation, the Committee may allocate water and sewer from the discretionary category.

13.03.09 Commercial, Industrial, and Institutional Allocation Guidelines

- A. Commercial, Industrial, and Institutional development projects must have an approved preliminary or final subdivision plat and must have applied for placement on the Master List by November 1 to be eligible to receive a water and sewer allocation in the next calendar year.
- B. Water and sewer allocations by individual lot acreage necessary for commercial, industrial, and institutional development, as outlined in Section 13.03.07, shall be determined by the Water and Sewer Service Committee subsequent to preliminary subdivision review, recorded lot, or final site plan review.
- C. Water and sewer allocations for preliminary subdivision review of land zoned commercial, industrial or institutional shall be calculated based upon the acreage of each individual lot, and shall establish maximum potential water and sewer allocations for the entire project, which cannot be exceeded by cumulative final water and sewer allocations scheduled to occur at the final site plan review.
- D. “Maximum Potential Water and Sewer Allocations” shall be established, based on the acreage of each individual lot, at the preliminary subdivision for all properties under common ownership, whether previously recorded or not prior to the adoption of this chapter, based upon the following:
 - 1. 4.99 acres or less of land = 7 EDUs per acre; and
 - 2. between 5 and 19.99 acres of land = 5 EDUs per acre; and
 - 3. 20 acres or more of land = 4 EDUs per acre

- E. If recordation of final subdivision plats within areas zoned commercial, industrial or institutional takes place prior to submission of a final site plan, the assignment of Maximum Potential Water and Sewer Allocation shall take place at recordation of the lots.
- F. Unless limited by a restricted allocation at final recordation of the plat, a “Final Water and Sewer Allocation” shall be established, based on the acreage of each individual lot, at the final site plan review stage based upon the allocation rates set forth in subsection D above.
- G. Water and sewer allocations for final site plans located within areas zoned commercial, industrial or institutional shall be based on the allocation rates set forth in Subsection D above; provided the cumulative final water and sewer allocations do not exceed the Maximum Potential Water and Sewer Allocations, and that no individual recorded lot is left with less than the minimum allocation to allow development to occur. No lot shall be left without an allocation, unless declared “unbuildable” with appropriate deed restrictions recorded or dedicated to the City or property owners association with the intent of never receiving an allocation.
- H. Eligibility for water and sewer allocations and priorities for recorded lots or development projects shall be determined by the Water and Sewer Service Committee and include a pro rata allocation per Prioritization Tier, based upon Table 13-1.
- I. The Water and Sewer Service Committee shall exhaust each tier set forth in Table 13-1 prior to allocating water and sewer to the next tier.

Table 13-1, Commercial, Industrial, and Institutional Water and Sewer Allocation
Prioritization Tiers

Prioritization Tier	Project Status	Next Stage of Approval Process
1	Plumbing alterations or increase in water usage within existing building.	Apply for plumbing permit or building permit.
2	Improvements construction plan approved/signed by SPW, final subdivision plat recorded.	Apply for Building Permit.
3	Improvements construction plan approved/signed by SPW and final-subdivision plat consistent with the improvements construction plan.	Record final subdivision plat.
4	Improvements construction plan is pre-final, SPW approval withheld pending resolution of all outstanding issues, preliminary subdivision plat approved by Planning Commission.	Receive SPW approval of improvements construction plan.
5	Improvements construction plan received by SPW, preliminary subdivision plat approved by Planning Commission.	Achieve pre-final status of improvements construction plan.

- J. Initial determination of project placement in a specific Prioritization Tier shall be based on the status of the project as documented in the application to be placed on the Master List. In the event that water and sewer allocations are insufficient for all projects within a Prioritization Tier, water and sewer allocations shall be based on the proportionate Maximum Potential Water and Sewer Allocations of the projects within that Prioritization Tier on a pro-rata basis.
- K. Each development project shall remain in its respective initial Prioritization Tier and shall be reassessed on an annual basis based on the status of the project on November 1 of each year. During the reassessment of project status, projects that did not receive an allocation during the first year will be given a preference to a full allocation of those development projects prior to giving an allocation to any new projects within that same Prioritization Tier.
- L. Project placement in a specific prioritization tier will be made by the Department of Public Works as the annual Master List is developed. In the event that allocation is insufficient for all projects within a prioritization tier, allocations shall be distributed on a pro rata basis.

- M. Commercial, Industrial, and Institutional Infill Development projects are eligible for water and sewer allocations from the commercial, institutional, and industrial developments allocation established in Sections 13.03.07 and 13.03.09. If water and sewer allocations are not available from the commercial, institutional, and industrial allocation, then commercial, institutional, and industrial infill Development projects may request the Water and Sewer Service Committee to allocate water and sewer allocations from the Discretionary Category.
- N. Building Permits for development under this Section shall be issued only if the approved projected water and sewer usage is consistent with the water and sewer allocations made pursuant hereto.
- O. Allocations for individual lots within a project zoned commercial, industrial or institutional under common ownership or control may be transferred among the individual recorded lots within that project, provided that no individual recorded lot is left with less than the minimum allocation to allow development to occur (no lot shall be left without an allocation), and provided the cumulative final water and sewer allocations do not exceed the maximum potential sewer and water allocation determined for the project. A note indicating total project and individual water and sewer allocations for each lot shall be placed on the preliminary subdivision and recorded plats.
- P. A project which has property in more than one Prioritization Tier, may transfer water and sewer allocated to property in one Tier to property classified in another Tier, in accordance with the provisions of Sections 13.03.09 and 13.03.10 of this chapter, provided that any project that transfers water and sewer allocations from a more preferred tier to a less preferred tier loses its priority, to the extent of the transfer, over projects that subsequently move up into the more preferred tier.
- Q. For existing commercial, industrial and institutional users other than Large Water Users, the baseline for determining whether an allocation is needed and for determining the amount of the allocation for a particular account shall be the difference between the projected flow rate and the average daily flow rate as calculated using the four largest consecutive billing quarters recorded by the City for that particular account during the 3-year period prior to the receipt from the user of a complete application for placement on the Master List.

13.03.10 Planned District Allocation Guidelines.

- A. Planned District Projects shall be determined by the Planning Commission upon approval of a Comprehensive Development Plan, Comprehensive Site Plan or Subdivision Plat.
- B. Water and sewer allocations for Planned District Projects which may contain residential,

commercial, industrial and/or institutional components shall be based upon the guidelines set forth in Section 13.03.07, for each component respectively, and shall be determined by Water and Sewer Service Committee subsequent to preliminary subdivision plat approval or a final improvements construction plan approval, whichever is applicable.

- C. Water and sewer allocations for the residential component of the Planned District Project shall be allotted from the residential allocation set forth in Section 13.03.07 and shall follow the residential allocation guidelines set forth in Section 13.03.08.
- D. Water and sewer allocations for the commercial, industrial, and institutional development component of the Planned District Project shall be allotted from the commercial, industrial, and institutional allocation set forth in Section 13.03.09 and shall follow the commercial and industrial allocation guidelines set forth in Section 13.03.07.
- E. Water and sewer allocations awarded to Planned District Projects are not negotiable and shall not be affected by subsequent conveyances of individual lots or units within the Planned District Project. Planned District Project water and sewer allocations are binding upon heirs and assigns.

13.03.11 Discretionary Allocation Guidelines.

A. Overview. Water and sewer allocations for discretionary development, shall be determined by the Water and Sewer Service Committee for the following development projects: Claims of Entitlement; Business Retention and Development; Government projects; Emergency exemptions; and Infill Development projects if allocations are not available under residential or commercial, industrial, and institutional categories.

B. Allocation.

1. The allocation percentages for the discretionary categories will be established by the Mayor and City Council by resolution and may be amended annually by resolution prior to November 1, upon recommendation by the Water and Sewer Service Committee.
2. A subcategory of the discretionary category that has exhausted its available allocation within that subcategory shall wait until additional water and sewer allocation becomes available for distribution.
3. If there is insufficient allocation to satisfy all projects within a subcategory of the discretionary category, water and sewer service permits shall be prepared for those proportionate amounts. Building permits will not be issued for projects that cannot demonstrate sufficient water and sewer has been.

4. If the Water and Sewer Service Committee determines that allocation to one or more of the Categories within the discretionary category, excluding government projects are not requested, the Committee will initiate a redistribution to reallocate water and sewer allocation from the subcategories which have unused allocation to those that have demonstrated demand for allocation. The redistribution will consist of removing 50% of the unused allocation from the identified subcategory and redistributing equally to those subcategories that have been completely depleted. This assessment will be conducted on a quarterly basis.

C. Claims of Entitlement. Projects that have been recognized as having a Claim of Entitlement shall receive water and sewer service permits until all available allocation in the claim of entitlement subcategory is distributed. Priorities for valid Claims of Entitlement shall be determined based upon the date of City execution of the written document containing the agreement that specifically provides water and sewer to the applicant.

1. Application. An applicant for a claim of entitlement shall submit documentation including the following information to the Department of Public Works:

- (a) A description of all portions of the property for which water is claimed, including its location, proposed use, current development approval status, description of development that has occurred to date, and amount of undeveloped portions of the property remaining; and
- (b) A copy of the written agreement forming the basis for the claim of entitlement, with specific reference to any promise by the City to provide water and/or sewer to the applicant and the amount thereof; and
- (c) The names and addresses of all property owners.

2. Hearing. Not more than thirty days after receipt of a complete application including the documentation required by subsection 1, above, of this section, the committee will schedule a public hearing, to take place within ninety days, at which the applicant may be heard regarding his claim of entitlement. The property owner shall pay for all costs of advertising.

3. Decision. The Water and Sewer Service Committee will render a written decision on the Claim of Entitlement not later than thirty days after the public hearing thereon. The committee will include in its decision, if applicable, a calculation of the amount of water and sewer to which the applicant is entitled by virtue of its claim of entitlement. This amount shall be calculated based on the improvements construction plan or preliminary subdivision plat in effect at the time the claim of entitlement is asserted.

4. **Allocation.** Upon finding that a valid claim of entitlement exists, the Water and Sewer Service Committee will first seek to allocate water and sewer from the Discretionary Allocation Category.

D. Business Retention and Development. Projects that have requested to be considered Business Retention and Development projects shall be reviewed under criteria set forth in this Section.

1. Allocations from the Business Retention and Development subcategory shall be made quarterly and shall be equally distributed among the applicants. Unallocated water and sewer during one period shall carry over and be distributed to projects during the next quarter of the calendar year.
2. Water and sewer service permits shall be required for all Business Retention and Development projects, and shall be granted allocation from the Business Retention and Development subcategory of the Discretionary Category. If no allocation is available in the Business Retention and Development subcategory, then no water and sewer service permit using this category can be written.
3. **Certification by Department of Planning and Zoning.** The Department of Planning and Zoning shall certify that a project is eligible for water and sewer allocation as a Business Retention and Development project if it receives a score of at least fifteen (15) points based on the following criteria scoring system:

Category	Points
Retention or Recruitment Status:	
Existing Salisbury Business	5
New Business	3
Type of Business:	
Manufacturing or Information Technology	5
Ancillary to Manufacturing or Information Technology	4
Healthcare or Industrial	3
Other Commercial Business (excluding retail)	2
Retail	1
Jobs Retained/Created:	
>100	6
75 to 99	5
50 to 74	4
25 to 49	3
<25	2
Capital Expenditure:	
>\$5,000,000	6
\$3,000,001 to \$5,000,000	5
\$1,500,001 to \$3,000,000	4
\$500,000 to \$1,500,000	3
<\$500,000	2
Annual Average Salaries:	

>15% higher than median	4
7.5% to 15% higher than median	3
0% to 7.49% higher than median	2
< 0% higher than median	0
Completion Time:	
<12 months	4
12 months to 24 months	3
25 months to 48 months	2
>48 months	0
Extra Credit Point (Internal Use Only)	
To be awarded by the Department of Planning and Zoning in the event of a tie score or to reflect factors not adequately reflected by the other criteria, in the sole discretion of the Department of Planning and Zoning.	1

- 4. Allocation Process.** Allocations will be made to eligible projects in January, April, July and October of each year. Projects requesting allocations shall make application by the last day of the month preceding the month in which the allocations will be distributed. All projects requesting an allocation from the Business Retention and Development category as of the deadline set forth above shall be reviewed by Department of Planning and Zoning and ranked from highest score to lowest score. An allocation will be made first to the highest-ranked project. Allocations will continue to be made in rank order until all projects have received an allocation or no allocation remains in the Business Retention and Development category, whichever occurs first. If there is insufficient allocation available to meet the needs of every eligible project, those projects in need of further allocation will be re-ranked and further allocations will be made during the next quarter.

E. Infill Projects.

1. Infill Development projects will use allocations from the Discretionary category, if residential, commercial, industrial, or institutional categories are not available. For Infill projects to be eligible, the project must be a lot of record and an Improvements Construction Plan, if one is required, must be approved.
2. **Eligibility.** Water and sewer will be allocated to infill development projects from the discretionary category in accordance with the procedures outlined herein. The Department of Public Works will certify that a project is eligible for water and sewer allocation as an infill project based on the following criteria:
 - (1) The project is proposed to be built on an existing lot of record;
 - (2) The lot was platted at least 15 years ago or the average age of surrounding structures is at least 15 years;
 - (3) Water and sewer is are available to the lot.

- (4) The project has an approved final improvements construction plan.
- (5) The project is located within the boundaries of area shown on Map 13-1, below.



Map 13-1, Urban Infill Map

3. Allocation Process. Allocations for infill development projects shall be made from the infill development subcategory of the discretionary allocation. Said allocations will be distributed in January, April, July and October of each year. Projects requesting allocations hereunder shall make application by the last day of the month preceding the month in which the allocations will be distributed. Each

eligible project will receive an equal allocation, except that no commercial, industrial, or institutional project may receive more than its maximum potential allocation as calculated pursuant to §13.03.9.D. Any water and sewer capacity in the infill development subcategory not allocated in a given quarter will remain in that subcategory for allocation to eligible projects during the next quarter.

F. Government Projects.

- 1. Eligibility.** Water and sewer will be allocated from the government projects subcategory of the discretionary category in accordance with the procedures outlined in this section. Any application for allocation to a proposed government project shall be accompanied by a resolution approved by the Mayor and City Council supporting the allocation and acknowledging that the project furthers the public health, safety or welfare.
- 2. Allocation Amount and Procedure.** Allocations for government projects shall be made from the government projects subcategory of the Discretionary allocation. Said allocations will be distributed quarterly. Projects requesting allocations under this subsection shall make application by the last business day of the month preceding the month in which the allocations will be distributed. Each eligible project will receive an equal allocation, except that no project may receive more than its maximum potential allocation as calculated. Any water and sewer capacity in the government projects subcategory not allocated in a given quarter will remain in that subcategory for allocation to eligible projects during the next quarter.

13.03.12 Water and Sewer Service Committee.

- A. Committee Tasks.** There is hereby established a Water and Sewer Service Committee responsible for the review and approval of Exemptions to this chapter outlined in Section 13.03.04, review and approval of Claims of Entitlement outlined in Sections 13.03.05 and 13.03.06, for the review and approval of Water and Sewer Service Permits set forth in Section 13.03.16, review and approval of variances to Water and Sewer Service Permits as outlined in Section 13.03.19, for the review and approval of Water and Sewer Service Permit Expiration and Revocation set forth in Section 13.03.18, and for the redistribution of unused allocations as outlined in Section 13.03.07.
- B. Membership.** The Water and Sewer Service Committee shall consist of representatives of:
 1. Engineering Division of Salisbury Public Works (1);
 2. Water Division of Salisbury Public Works (1);
 3. Salisbury-Wicomico County Department of Planning and Zoning (1);
 4. Department of Building Permits and Inspections (1);

5. The Finance Division of the Department of Internal Services (1); and
 6. Water and sewer customers (2) that are not employed by the City of Salisbury or Wicomico County. The two customers shall be appointed for four-year terms by the Mayor with the consent and approval of the City Council.
- C. Legal Review.** The Water and Sewer Service Committee may consult with the City Solicitor regarding decisions in paragraph A above.
- D. Meetings.** The Water and Sewer Service Committee shall meet quarterly, and more frequently if needed, for the purposes outlined in Section (A) above. All meetings of the Water and Sewer Service Committee shall comply with the provisions of the Maryland Open Meetings Act. The committee shall adopt rules of procedure to govern the transaction of its business.
- E. Application for Action by Committee.** Any person wishing to have a matter of business placed on a committee meeting agenda shall do so in accordance with any committee rules of procedure in effect at the time of application and in accordance with the procedures and submission requirements established by the Department of Public Works.
- F. Allocations Made by the Committee.** The committee will allocate the water and sewer to each project in an open meeting, following written notice to each property owner scheduled to receive an allocation. After the allocation has been made, the Department of Public Works will mail another written notice to each property owner confirming the amount of the allocation and notifying the property owner of the permit application requirements.

13.03.13 Water and Sewer Service Appeals Board.

- A. Overview.** A Water and Sewer Service Appeals Board is established for the review and adjudication of appeals as defined in Expiration/Revocation Procedure in Section 13.03.18, Hearing in Section 13.03.20, provide Required Findings in Section 13.03.21, and make a Decision and Notice in Section 13.03.23.
- B. Membership.** The Water and Sewer Service Appeals Board shall consist of:
1. The Mayor;
 2. A City Council Member selected by the City Council President;
 3. The City Administrator;
 4. The Director of Public Works;

5. The Director of Internal Services; and
 6. Two water and sewer customers that are not employed by the City of Salisbury or Wicomico County, and not a member of the Water and Sewer Service Committee. The two customers shall be appointed for four year terms by the Mayor with the consent and approval of the City Council.
- C. Legal Review.** The Water and Sewer Service Appeals Board may consult with the City Solicitor regarding the decisions in paragraph A, above.
- D. Meetings.** The Water and Sewer Service Appeals Board shall meet as required for the purposes outlined in Section (A) above. All meetings of the Water and Sewer Service Appeals Board shall comply with the provisions of the Maryland Open Meetings Act. The Board shall adopt rules of procedure to govern the transaction of its business.

13.03.14 Large Water and Sewer Users.

- A. All water and sewer customers having an account with an average water utilization of 300,000 gallons per quarter or more shall have a rolling 12-month maximum average ceiling established. This ceiling will be based on the usage average of the previous four billing quarters effective November 1, 2006. A 5% buffer will be added to the November 1, 2006 ceiling to yield the customer's maximum average daily flow limit.
- B. The Water and Sewer Service Committee shall:
 1. Review the water usage records of all customers with an average water utilization of 300,000 gallons or more.
 2. Using the water usage records, determine the usage average of the previous four billing quarters effective November 1, 2006.
 3. Determine maximum daily flow limit by multiplying the average daily flow determined in the previous paragraph by 1.05.
 4. Notify all Large Water Users for their comment on the maximum average daily flow limit determined by the Committee. After providing a thirty day period for customer comment, then make a decision on the maximum average daily flow limit.
- D. Large Water Users have the right to appeal to the Water and Sewer Service Appeal Board within thirty calendar days after notification of the maximum daily flow limit decision by the Water and Sewer Service Committee.
- E. Large Water Users may request additional water and sewer allocations by submitting a request to the Water and Sewer Service Committee in accordance with §13.03.07. They will be required to submit a Water Conservation Plan in accordance with §13.03.32.

- F. Large Water Users exceeding the maximum average daily flow limit for a rolling 12-month period shall submit an application for increased Water and Sewer allocation and shall pay an additional water and sewer usage penalty calculated on their excess usage based on the following graduated scale:

<u>% Above Max Daily Flow</u>	<u>% of Residential Rate</u>
1% to 10%	80%
10.01% to 20%	100%
20.01% to 50%	120%
Greater than 50%	200%

- G. Large Water Users may be subject to denial of Water and Sewer service following issuance of a written warning from the City.

13.03.15 Water and Sewer Service Permits.

- A. Applications for Water and Sewer Service Permits must be made within sixty days of written notice of allocation by the Water and Sewer Service Committee. Phased development projects shall require separate applications for each phase of development. Application fees shall be paid at the time of application for a Water and Sewer Service Permit. All fees are nonrefundable. Amount is determined in accordance with §13.03.07.H. Expiration and revocation of Water and Sewer Service Permits shall occur pursuant to Section 13.03.18.
- B. No Building Permit or Certificate of Occupancy shall be issued unless a Water and Sewer Service Permit is in effect or a written Exemption to the provisions of this chapter has been granted by the Water and Sewer Service Committee.
- C. No water or sewer service shall be provided unless a Water and Sewer Service Permit or written Exemption has been approved by the Water and Sewer Service Committee pursuant to the procedures and criteria set forth herein.
- D. The Water and Sewer Service Permit will be valid for three years, unless specifically excepted in the Water and Sewer Service Permit. The Water and Sewer Service Committee may grant an extension of up to two years.
- E. Expiration and revocation of a Water and Sewer Service Permit shall occur pursuant to subsection 13.03.18.
- F. The filing of the application required by this chapter shall entitle the applicant either to a Water and Sewer Service Permit or, in the event that the Committee decides not to approve a Water and Sewer Service Permit, the remedy of a hearing pertaining to the application. The nature of the hearing to be conducted shall be determined by the Water and Sewer Service Appeals Board, taking into consideration any written request by the

applicant in regard thereto.

- G. The City's exercise of its police power to protect the health, safety and welfare of the general public in reviewing development projects or in making Approvals and Exemptions shall not be deemed to create a duty to any applicant to supply water and sewer service.
- H. Approval of a Water and Sewer Service Permit and payment of all fees shall serve as a reservation of water and sewer allocations in accordance with the terms stated on the permit and as made generally applicable through the provisions of this chapter. Upon issuance of the Water and Sewer Service Permit, the applicant shall be entitled to receive water and sewer service in the City in accordance with the terms of said permit.

13.03.16 Water and Sewer Service Permit Approval Procedure.

- A. The application for a Water and Sewer Service Permit shall include the following information and supporting documentation and the Committee may require the submission of such additional information and supporting documentation as it deems appropriate for utility planning purposes:
 - 1. Applicant's name and address;
 - 2. Name of the lot and/or subdivision, if applicable, or the legal description indicating the precise location of the parcel or parcels for which the permit is being sought; and
 - 3. The number and type of single-family, detached, townhouse or multifamily units and/or total square feet by building or structure and net acres for all non-residential units; and
 - 4. Description of proposed use and amount of annual sewer and water usage proposed per dwelling unit, with calculations and supporting documentation.
 - 5. Date of filing and applicant's signature.
- B. Upon receipt of a completed application, the Committee shall review the submitted application, determine the total EDUs represented by such application, and determine the total demand for water and sewer that will be generated by the proposed development project.

13.03.17 No Effect on Police Power.

Notwithstanding any other provision in this chapter, approval of a Water and Sewer Service Permit hereunder shall not be deemed to prevent the future exercise of the City's police powers to protect the health, safety and general welfare.

13.03.18 Expiration/Revocation of Water and Sewer Service Permits.

- A. A Water and Sewer Service Permit shall expire and revocation of the applicant's water service allocation shall occur in accordance with the terms and conditions set forth in the permit, and as otherwise made applicable through the provisions of this chapter.
- B. Basis for expiration/revocation.
 - 1. A building permit shall have been issued within three years of the date of the Water and Sewer Service Permit.
 - 2. Passage of the three-year period and the one renewable period of two years for a total of five years shall constitute automatic revocation of the entire unused allocation for water and sewer. If the committee chooses not to extend the allocation, the allocation shall expire at the end of the three year allocation period.
 - 3. Water and sewer allocation revocations shall be returned to the allocation category from which it originated.
 - 4. The Committee may revoke a Water and Sewer Service Permit for any of the following reasons:
 - a. Failure to commence construction on or before the date set forth in construction schedule contained in the Water and Sewer Service Permit;
 - b. Failure to complete construction in strict accordance with the construction schedule required in the Water and Sewer Service Permit;
 - c. Expiration or revocation of a Building Permit;
 - d. Failure to comply with any other condition imposed in the Water and Sewer Service Permit or other condition imposed as a condition of development.
 - 5. In the event the applicant is unable to comply with the terms and conditions of the Water Service Permit which could result in an Expiration and/or Revocation, the applicant may request an extension of the Water and Sewer Service Permit.
- C. **Relinquishment Procedure.** An applicant may voluntarily relinquish a Water and Sewer Service Permit at any time and subsequently submit a new request for allocation hearing, subject to the provisions of this chapter. All fees are nonrefundable.
- D. **Revocation Initiation and Notification Procedure.**
 - 1. The Water and Sewer Service Committee shall determine which Water and Sewer Service Permits are subject to revocation based upon the factors set forth in §13.03.18.A, and will provide an accurate accounting of the EDUs that have been

revoked which shall be indicated on the summary of allocations prepared after each Committee meeting through this revocation process.

2. The Water and Sewer Service Committee shall mail a certified, return-receipt-requested letter to the property owner. The letter shall contain a thirty day notice to show cause before the Sewer and Water Service Appeals Board as to why the Water and Sewer Service Permit should not be revoked.
3. In the event that the Water and Sewer Service Permit holder or any other person notified does not respond to the Water and Sewer Service Committee and request a hearing before the Water and Sewer Service Appeals Board within thirty days of the date of the notice, the non-responding Water Service Permit holder will automatically lose the Water and Sewer Service Permit approval and the water and sewer allocations shall be revoked.
4. As part of the hearing process, the Water and Sewer Service Appeals Board may hear and consider whatever testimony, evidence and/or circumstances it deems appropriate. The Board shall render its decision following the revocation hearing in writing within ten days and, if appropriate, direct staff to proceed with the reallocation of the water and sewer treatment capacities.

13.03.19 Variance Procedures.

- A. No Sections or provisions of this Ordinance shall be eligible for a variance other than that listed below.

Upon recommendation of the Water and Sewer Service Committee and the Water and Sewer Service Appeals Board, the City Council may authorize a variance to the allocation procedures in Sections 13.03.07 through 13.03.11. This variance may be authorized for large-scale and/or complex development projects that would be jeopardized through the strictly applied application procedures outlined in Sections 13.03.07 through 13.03.11. The City Council may grant a variance to those sections after making the following specific finding:

- a. Whereby reason of scale, complexity, extraordinary situation, or condition peculiar to a specific development project, the strict application of the limited allocation award as provided for by this Section would result in undue hardship upon the owner of the development project; and
- b. The variance requested is the minimum allocation reasonably necessary to achieve the conditions applicable to the development project; and
- c. The applicant requesting the variance shall provide written justification, subject to approval by the City Council, that the project will not be able to move forward without said variance; and

- d. Granting the variance is in keeping with the general purpose and intent of this chapter and will not result in the hoarding of water and sewer allocations; and
 - e. Granting the variance will not unreasonably limit the remaining available capacity for award of future allocations by the City to future applicants.
- B. In granting the variance, specific conditions and safeguards may be prescribed in conformity with this chapter. The terms of all authorized variances shall be contained in the Water and Sewer Service Permit. Violation of such conditions and safeguards shall be a violation of the Water and Sewer Service Permit and may be grounds for revocation.

13.03.20 Hearing.

If the holder of an Approval or Exemption specified in this chapter or any other person notified pursuant to Section 13.03.18 requests, within thirty days from the date of such notice, that a public hearing be held concerning revocation, the Water and Sewer Service Appeals Board shall schedule a hearing within a reasonable time after receiving such request. Hearings may be held during regular public meetings of the Water and Sewer Service Appeals Board or may be held at a special meeting called in accordance with Local and State law. The Water and Sewer Service Appeals Board may designate persons other than the holder of an Approval or Exemption as interveners in the proceedings. At the hearing, the Water and Sewer Service Appeals Board shall hear testimony of the Water and Sewer Service Committee, City staff, the holder of the Approval or Exemption, interveners and, if present, any other person alleging direct injury. The hearing may be continued without additional public notice.

13.03.21 Required Findings.

The Water and Sewer Service Appeals Board shall revoke an Approval or Exemption upon making one or more of the following findings:

- A. That the approval was made on the basis of erroneous or misleading information or misrepresentations; or
- B. That the basis for Revocation or Expiration set forth in Section 13.03.18 have been met; or
- C. That other Federal, State or local laws or regulations have been violated.

13.03.22 Permit Extensions.

Upon demonstration that extenuating circumstances exist which have prevented the satisfaction of conditions imposed on an approval specified in this chapter, the Water and Sewer Service Committee may allow an extension of an approval on satisfaction of additional conditions not

inconsistent with the initial approval.

13.03.23 Decision and Notice.

Within thirty days, the Water and Sewer Service Appeals Board shall render a decision, and shall mail notice of the decision to the property owner.

13.03.24 Effective Date of Revocation.

A decision to revoke an approval shall become final ten days after the date of the decision.

13.03.25 Water and Sewer Accounting and Monitoring System.

- A. The Allotted Water and Sewer Demand shall not exceed the City's total permitted Water and Sewer Treatment Capacities.
- B. The Department of Public Works will develop a water and sewer accounting and monitoring system that accurately tracks deductions to and increases in the Water and Sewer Treatment Capacities.
- C. The Department of Public Works shall monitor allotted Water and Sewer Treatment Capacity by determining:
 - 1. Water and sewer treatment capacity utilization on the date of passage of this chapter, and
 - 2. All water and sewer allocations formally approved under this chapter.

13.03.26 Relationship of Ordinance to the City of Salisbury Comprehensive Plan and Other City Regulations and Ordinances.

- A. Comprehensive Plan. This chapter is not part of nor does it amend the City's comprehensive plan or master plan.
- B. Other City Ordinances and Regulations. This Ordinance shall be deemed to be an amendment to the City Code. Except as specifically amended by this Ordinance, all provisions of the City Code shall remain in effect and shall be applicable and in full force and effect to all applications submitted to and issued by the City for development permits. All existing City ordinances and regulations, including, but not limited to, those regulating the division of land, permissible use of land, the development of land, the density or intensity of development of land, applicable design and improvement standards and requirements, adequacy of public facilities, and the imposition of impact fees, shall remain operative and shall be in full force and effect without limitation during the effective period of this chapter. This chapter is additional and supplemental to, and not a substitution for, any other ordinance or regulation enacted by the City. To the extent possible, both this Ordinance and all other City ordinances and regulations shall

be given effect.

13.03.27 Conflict.

To the extent of any conflict between other City ordinances or regulations and this Ordinance, the more restrictive shall be deemed controlling. This Ordinance is not intended to amend or repeal any existing City ordinance or regulation.

13.03.28 Severability.

If any Section, sentence, clause, phrase or portion of this Chapter is, for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter.

13.03.29 Administrative Fees and Capacity Fee Deposit

The Mayor and City Council shall establish by Resolution to be evaluated and amended on an annual basis in January each year, a schedule of fees and capacity fee deposit to be paid by applicants subject to this Chapter. If the Department of Public Works determines that the schedule of fees should be adjusted to reflect the then current costs, the Department of Public Works shall so advise the Mayor and City Council in September and the schedule of fees may be modified by the Mayor and City Council to reflect then current costs with the effective date of first day of the following calendar year. The applicant shall pay the then current fee at the time the application is filed.

13.03.30 Appeal.

- A. Any person aggrieved by a final decision of the Water and Sewer Service Committee may appeal to the Water and Sewer Service Appeals Board.
- B. Any person aggrieved by a final decision of the Water and Sewer Service Appeals Board may perfect an appeal to Court of competent jurisdiction within thirty days of the date of such decision, pursuant to procedures established by Maryland law or court rule.
- C. Prior to filing an appeal to the Water and Sewer Appeals Board, a non-refundable Appeal Fee shall be paid. The fee will be based on the Appeal Board's staff and City Solicitor's labor cost for one hour.

13.03.31 Drought or Emergency Conditions.

It is the intent of this chapter that water and sewer allocations for development within the City of Salisbury shall not occur during periods of drought or other emergency conditions that mandate water restrictions. Therefore, no water and sewer allocations shall be made under the terms of

this chapter when existing conditions mandate water restrictions within the City of Salisbury.

13.03.32 Water Conservation Plan for Commercial, Industrial, and Institutional.

- A. Large Water Users as defined in §13.03.14 shall have an associated water conservation plan when requesting an initial or additional allocation of water and sewer capacity.
- B. Every water conservation plan shall include the following components:
 - 1. Assessment of physical plant, facilities and existing or proposed consumption;
 - 2. Notification and education of employees or customers as to the need for water conservation measures; and
 - 3. Operational changes that will result in a decrease in water consumption.
- C. The Department of Public Works will evaluate every proposed water conservation plan to ensure that it includes each of the components listed in subsection B of this section as part of the Water and Sewer Service Permit application process. Once approved by the Department of Public Works, the water conservation plan will be made a part of the Water and Sewer Service Permit.

13.03.33 Residential Water Conservation Requirements.

These measures are the minimum required for residential water and sewer allocation to be eligible for the Equal Distribution Sub-allocation prior to the Pro-Rata Distribution Sub-allocation of EDU's. To be eligible the developer shall require in the development build out all Level 1 water conservation measures, and one of the following:

- A. Fixture controls devised to minimize running water at sinks and lavatories; and
- B. Grey water recycle system for flushing toilets or high-efficiency toilets using less than 1.3 gallons per flush
- C. Reduce water waste by using technologies that provide hot water at the tap with a minimum wait time: minimizing hot water piping lengths by building floor plan, installing on demand hot water, installing hot water heaters near use or installing local controlled hot water recirculation system, and installing high-efficiency dishwashers.

13.03.34 Definitions.

Affordable Housing. A housing project for low to moderate income City residents in which the rent or mortgage does not exceed 30% of the household income. A low to moderate income household earns 50% or less of the area median household income.

Allocation. A share set aside for a specific purpose, specifically one equivalent dwelling unit (EDU).

Allotted Water and Sewer. The demand for water and sewer, expressed in GPD formally approved by Water and Sewer Service Permits plus water and sewer currently being used or contracted to be used, on the date of passage of the Ordinance codified in this Ordinance plus the Unallocated Reserve as herein defined.

Available Water Capacity. The quantity of water and sewer determined to be potentially available to serve existing, pending and New Development Projects.

Average Daily Demand. The demand for water and sewer under average weather conditions for a defined level of development.

Building Permit. Any permit issued by the City of Salisbury that allows any building construction, including but not limited to permits for the erection, construction, enlargement, alterations, repair, improvement, conversion or demolition of any building or structure regulated by the City Code.

Business Retention and Development. The advancement of business retention and expansion as an economic development strategy for the City of Salisbury. Business Retention and Development includes, but is not limited to: industrial, retail, agricultural and tourism-type retention and expansion programming as a credible economic development strategy.

City. The City of Salisbury, a municipal corporation authorized by the State of Maryland.

Claims of Entitlement. Claims of water and sewer eligibility based upon a legally binding agreement or contract with the City, excluding executed Public Works Agreements, that was entered into prior to the effective date of this Ordinance. Water and Sewer allocations for Claims of Entitlement that are recognized by the City will be awarded from the Water and Sewer Category.

Conditional Entitlement. Projects that have fully executed Public Works Agreements and an approved improvements construction plan as of the effective date of the Water and Sewer Allocation Management Program.

Day. A day shall be defined as any day of the week, Monday through Sunday.

Discretionary Allocation. Development projects eligible for discretionary allocation as defined by this Ordinance including but not limited to Claims of Entitlement, business retention projects, government development projects, institutional development projects, and emergency development projects.

Equivalent Dwelling Unit (EDU). The average water needed to serve a typical single family home; including allowances for inside and outside use. For the purpose of this chapter, one EDU

shall equal 250 gallons per day (gpd) of water.

Exemption. A determination that a project is not subject to this Ordinance.

Government Projects. A project by a governmental agency that furthers the public health, safety, and welfare.

Infill Development. Development that occurs in established areas of The City as shown in Map 13-1, either on long-time vacant lots or on pieces of land with dilapidated buildings, or can involve changing the land use of a property. Residential and Commercial/Industrial/Institutional Infill developments are eligible for water and sewer allocations from the general category of residential or commercial/industrial/institutional categories, respectively. If water and sewer is unavailable in the general category of development, Infill Development may request water allocation from the Discretionary Category.

Institutional Development. A public or private, profit or non-profit use designated to advance the knowledge or application of educational, religious, health, cultural or other similar objectives, unless otherwise specifically defined within the Zoning Ordinance of the City of Salisbury.

Intervener. A person who assumes a part in a suit between others or has some right or interest in the suit and will not unduly prejudice the ability of the original parties to the lawsuit in conducting their case.

Master List. The approved list of residential and commercial development projects, excluding discretionary projects, from which annual water and sewer allocations shall be made.

Planned Districts. Floating zones approved by the City Council to provide for a wide range of planned housing developments, planned commercial or business developments, mixed use developments, and industrial developments encouraging the best design of buildings and site planning for more efficient use of land and provision of public services.

Water and Sewer Appeals Board. A committee established by this Ordinance in accordance with Section 13.03.13.

Water and Sewer Service Committee. A committee established by this Ordinance in accordance with Section 13.03.12.

Water and Sewer Service Permit. A legally enforceable commitment that the City will serve a development project with water and sewer in accordance with the allocation expressed therein and subject to the terms and conditions stated therein.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the _____ day of _____, 2008, and having been published as required by law, in the meantime, was finally passed by the Council on the day of _____, 2008.

ATTEST:

Brenda J. Colegrove, City Clerk

Louise Smith, President
Salisbury City Council

Approved by me, this
day of _____, 2008

Barrie P. Tilghman
Mayor of the City of Salisbury