

TOWN OF CLINTON

HUNTERDON COUNTY, NEW JERSEY

ORDINANCE # 15-01

ORDINANCE AMENDING CHAPTER 142 ENTITLED "WATER" OF THE GENERAL ORDINANCES OF THE TOWN OF CLINTON, COUNTY OF HUNTERDON, AND THE STATE OF NEW JERSEY REGARDING WATER CAPACITY RESERVATIONS

**WHEREAS**, the Water Committee of the Town of Clinton has recommended to the Mayor and Council that Chapter 142 of the Code of the Town of Clinton be amended to include provisions governing applications for water reservations;

**WHEREAS**, there is a limited amount of water and production capacity in the water system operated by the Town of Clinton Water Department; and

**WHEREAS**, there is a substantial demand for new water capacity by various developers; and

**WHEREAS**, it is necessary to establish procedures for the allocation of the water among competing developers so that water capacity is fairly allocated; allocated in a way that benefits the system; and allocated in a way that does not lead to stale water applications tying up valuable capacity; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Clinton, the County of Hunterdon, that Chapter 142 entitled "Water" of the Code of the Town of Clinton ("Code") is hereby amended as follows:

**SECTION 1.** Section 142-11 of the Code of the Town of Clinton entitled "Water Reservation Application" is hereby added as follows:

A. Applicability

Any applicant, with the consent of the property owner, within the service area of the Town of Clinton Water System, may apply to the Town of Clinton Water Department for Water Reservation. An application for Water Reservation is required for any proposed project that will require the construction of a new water main extension for the service, or any project that will generate an increase in demand, as determined in accordance with NJAC 7:10-12. If necessary, the applicant shall be responsible to extend the Town's water main to the property and to construct other water system improvements as may be necessary to reliably serve the proposed development in accordance with the Town's standards and any applicable Water Service Agreement and any reasonable standards established by the Water Department's Consulting Engineer.

B. Definitions

- (1) Small Water Project shall mean any project for which the water reservation amount requested is less than 1,000 gallons per day.
- (2) Large Water Project shall mean any project not fitting the definition of a "Small Water Project" for which the water reservation requested is greater than 1,000 gallons per day or requires Water System Extension Permits from the New Jersey Department of Environmental Protection.
- (3) Town of Clinton Water System Service Area shall be depicted on the water service area map maintained and periodically updated by the Town of Clinton Water Department, showing all existing properties served, limits of existing water distribution system infrastructure, and surrounded by a service area boundary.
- (4) Water Reservation is the binding commitment of the Clinton Water Department to provide potable water service in sufficient quality and quantity to a proposed project in accordance with applicable water system regulations and standards. Project specific conditions may require the formulation and execution of a project specific agreement addressing water supply and infrastructure improvements beyond that established by the Water Reservation ("Water Agreements"). A Water Reservation is valid for one year and can be renewed in accordance with the review and renewal procedures set forth herein.
- (5) Quarterly Letter of Water Availability shall be the letter published by the Town of Clinton Water Department which defines the amount of water available at the time of publication of the letter. Developers are advised that such quarterly letter of water availability is subject to the progress and volume of water reservation applications by other applicant's as well as the variable nature of existing system demands and that they pursue their land use development and regulatory approvals needed to secure eligibility for water reservation application, at their own risk. The Town cannot and does not guaranty that the quantities of water set forth in the Quarterly Letter of Water Availability will exist in the future, but will make its best efforts to produce those quantities subject to regulation and oversight by the New Jersey Department of Environment Protection ("DEP"), regulations of the New Jersey Highland Council, water availability and other factors.
- (6) Water Committee shall refer to three (3) members of the governing body appointed by the Mayor whose responsibility shall be the supervision, management and control of the Clinton Water Department. Any decision of the Water Committee is subject to the review and approval of the Mayor and Council of the Town of Clinton.
- (7) Will Serve Letters is the ability for the Clinton Water Department to provide a non-binding, written confirmation of water availability for a particular project located within the Clinton Water Department's Service area. Said approval will only be provided if there is currently adequate capacity in the Town's water supply systems based on a firm

capacity calculation as defined by the NJDEP in *NJAC* 7:10-11.6(a), using a peak daily demand as defined herein and prescribed under *NJAC* 7:10-11.4(a)(7), as well as sufficient water allocation established by the NJDEP in its Water Allocation permits issued to the Town of Clinton Water Department.

The receipt of a Will Serve letter by an applicant does not preclude an applicant from applying for Water Reservation as indicated above.

C. Application

The application for Water Reservation shall be on the forms prescribed by the Water Department, which shall include but not be limited to the following:

- (1) The name and address of the applicant;
  - (a) The address of the property and the tax lot and block designation;
  - (b) Description of the existing use of the property;
  - (c) Description of the proposed use of the property and/or the type of building(s) to be constructed thereon;
  - (d) An approved preliminary and/or final subdivision plan, site plan and/or any necessary variance approval, general development plan, zoning permit or redevelopment plan of the proposed project indicating the number of proposed lots and the proposed uses on each lot.
  - (e) Proof of submission to the Council on Affordable Housing requesting Substantive Certification and/or an approved letter from the Council on Affordable Housing which provides Substantive Certification for municipally funded affordable housing projects,

Or,

A Court Ordered Final Judgment of Response as it relates to affordable housing within the municipality in question;

- (f) An estimate of the average daily water usage required by the proposed use of the property;
- (g) An estimate of the dates of anticipated water service connection and water meter installation to the Town's water system;
- (h) An agreement by the applicant to abide by and accept all of the provisions of this chapter and such rules and regulations as may be promulgated by the Town; and

- (i) Any additional information as may be required by the Water Department or its Consulting Engineer to assist in the processing of said application.

#### D. Application Priority

All applications for Water Reservation will be reviewed for completeness and once deemed complete, assigned a water reservation number and forwarded for review based upon the order in which they were received by the Water Department Clerk. The priority in terms of allocating capacity shall be based upon the order in which Water Reservation Applications are approved by the Water Committee with the exception of affordable housing projects that are fully funded by the municipality can provide proof of submission to the Council on Affordable Housing requesting Substantive Certification and/or written confirmation from the New Jersey Council on Affordable Housing (COAH) that their project has received Substantive Certification and/or a Court Ordered Final Judgment of Respose as it relates to affordable housing within the municipality in question. Projects that fall under this category shall receive priority and, if their application for Water Reservation is deemed complete, shall have their water immediately reserved so long as the other conditions in this ordinance have been met. In the event a municipality has their Substantive Certification rescinded by COAH, or should they abandon the approved project, they will relinquish their rights to their approved Water Reservation, and said allocation will be available for future applicants.

Unless explicitly listed in this ordinance, or required by State or Federal Law, no other factors shall determine the priority of a Water Reservation.

#### E. Time Limit

From the date of issue, an approved Water Reservation shall be valid for a period of one year. Within 60 days of the expiration of the Water Reservation, the Water Consulting Engineer shall conduct a review of the Water Reservation and may request supplemental information from the applicant in order to establish the validity and currency of the water reservation. Applicants must maintain their eligibility for water reservation by conforming to the conditions of their applicable land use approvals, obtaining regulatory approvals and documenting the efforts taken to advance the proposed project. To extend the validity period of the approved Water Reservation, developers must establish that they have acted diligently and taken all reasonable steps to advance the development of the proposed project. They must demonstrate they have diligently pursued any required land use approvals, secured or diligently pursued any other necessary approvals from other agencies and acquired all necessary rights of way or easements. Developers may be required to show evidence they have met these goals to preserve their Water Reservation.

The Water Reservation shall be void unless water service is actually extended to the subject property during the time period which the Water Reservation is valid. The Water Reservation

may be renewed for longer periods at the discretion of the Water Committee to coincide with the expiration date of or an extension granted for a permit issued by NJDEP to construct/modify/operate public water works facilities relating to the subject project. The applicant must apply to the Water Committee for any such extensions in writing.

In the event that the water service connection is not completed within the period set forth above, the Water Reservation shall expire if not renewed and any portion of the Water Reservation for which connections have not been made will revert to the Town for use in addressing other water reservation applications.

F. Water Reservation Fee

A Water Reservation fee in an amount to be determined in accordance with law and the Rules and Regulations of the Water Department shall be paid to the Water Department at the time of application and at each renewal. Non-payment of the Water Reservation Fee will result in termination of the Water Reservation.

G. Transfer of Water Reservations

Transfer of an approved Water Reservation is prohibited; with the exception of affordable housing projects located within the same municipality provided all interested parties consent. A Water Reservation within the Town's water supply system shall not be traded, sold or otherwise reallocated by an applicant, unless the property identified in the Water Reservation is sold to a new owner in which case the Water Reservation will run with the land to the extent necessary to affect the intent of the Water Reservation. Water Reservations for any project on specific parcels of land shall not be assignable to any other project. In the event that a project is abandoned, or the construction of the same does not utilize the entire Water Reservation granted to it, the unused allocation shall revert to the Town and shall become available for Water Reservation in accordance with the procedures set forth in this subchapter. Should the scope of a project change and additional water allocation is required, the incremental increase in allocation requested shall be treated as a new Water Reservation application.

H. Small Project Water Reservation Applications

(1) Application Fee

An application fee as provided in Chapter 73 of two hundred fifty (\$250.00) dollars shall be submitted upon the filing of the application. Said fee shall be used by the Town to cover the administrative costs associated with the review of the application.

(2) Application Review

Applications for Water Reservation as defined above shall be reviewed by the Water Superintendent and/or Water Engineer, who in-turn will provide a recommendation to the

Water Committee. A Water Reservation shall be issued provided a determination is made that there is currently adequate capacity in the Town's water supply systems based on a firm capacity calculation as defined by the NJDEP in *NJAC 7:10-11.6(a)*, using a peak daily demand as defined herein and prescribed under *NJAC 7:10-11.4(a) (7)*, as well as sufficient water allocation established by the NJDEP in its Water Allocation permits issued to the Town of Clinton Water Department.

(3) Application Determination

The Water Committee shall approve or deny the application within thirty (30) business days of receipt of a complete application. The Town reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed five (5) business days if additional time is required for processing said application. The failure of the Town to render a decision within the aforesaid time period shall constitute a denial of the application without prejudice.

(4) Monthly Report

The Water Superintendent will prepare and submit a monthly report to the Water Department indicating the number and total estimated usage of approved Small Project Water Reservation applications.

I. Requests for "Will Serve" letters for Small Projects

(1) Request Fee

A Will Serve Letter request fee as provided in Chapter 73 of one hundred (\$100.00) dollars shall be submitted upon the filing of the application. Said fee shall be used by the Town to cover the professional and administrative costs associated with the review of the request.

(2) Request Review

Requests for Will Serve letters as defined above shall be reviewed by the Water Superintendent and/or Water Engineer, who in-turn will provide a recommendation to the Water Committee. A Will Serve Letter shall be issued provided a determination is made that there is currently adequate capacity in the Town's water supply systems based on a firm capacity calculation as defined by the NJDEP in *NJAC 7:10-11.6(a)*, using a peak daily demand as defined herein and prescribed under *NJAC 7:10-11.4(a) (7)*, as well as sufficient water allocation established by the NJDEP in its Water Allocation permits issued to the Town of Clinton Water Department.

(3) Review Determination

The Water Committee shall approve or deny the request within thirty (30) business days of receipt of a complete application. The Town reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed five (5) business days if additional time is required for processing said application. The failure of the Town to render a decision within the aforesaid time period shall constitute a denial of the request without prejudice.

(4) Expiration of Will Serve Letter

All Will Serve Letters will expire ninety (90) days after the date of issuance by the Clinton Water Department. Upon expiration, the applicant relinquishes their rights to their approved "Will Serve", and said allocation will be available for future applicants.

Upon written request by the applicant prior to the afore-mentioned expiration date, applicants can request said approval be extended. Applicants will be eligible for no more than three (3) additional ninety (90) day extensions should they be requested. Under no circumstances will an applicant be granted additional extensions other than what is previously indicated above. Upon expiration of the requested extension(s), the applicant relinquishes their rights to their approved "Will Serve", and said allocation will be available for future applicants.

(5) Extension Request Fee

A Will Serve Letter extension request fee as provided in Chapter 73 of fifty (\$50.00) dollars (per occurrence) shall be submitted upon the filing of the extension request. Said fee shall be used by the Town to cover the professional and administrative costs associated with the review of the request.

J. Large Project Water Reservation Applications

(1) Application Fee

An application fee as provided in Chapter 73 of one thousand five hundred (\$1,500.00) dollars shall be submitted upon the filing of the application. Said fee shall be used by the Town to cover the administrative and professional consulting costs associated with the review of the application.

(2) Application Review

Applications for Water Reservation for Large Projects shall require the approval of the Water Committee. The Water Committee's Consulting Engineer shall prepare and

submit a report to the Water Committee concerning the nature of the allocation, the status of any required NJDEP applications, an evaluation of any required system improvements necessary to serve the project as well as an updated analysis of the water system's firm capacity and peak daily demand. Specifically, the Water Consulting Engineer shall evaluate the application against the Water Utility's available firm capacity and allocation limits as prescribed by regulations found at *NJAC 7:10* and *NJAC 7:19*. The report shall also address technical details of the proposed project's service connection and water related improvements including but not limited to materials, equipment, regulations, easements, metering, etc. Applications will be recommended for approval when no physical, technical, financial or regulatory constraints prevent service to the proposed project.

(3) Application Determination

The Water Committee shall approve or deny the application by resolution within sixty (60) days of receipt of a complete application. The Water Committee reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed thirty (30) days if additional time is required for processing said application. The failure of the Town to render a decision within the aforesaid time period shall constitute a denial of the application without prejudice.

If an application is approved by the Water Committee, a formal resolution will be prepared by the Municipal Attorney authorizing the Water Reservation to the applicant. The resolution may contain such terms and conditions as are reasonably necessary to guarantee compliance with all Federal, State, county and local statutes, rules, and regulations. In addition, the applicant may be required to enter into a Developer's Agreement with the Water Committee, Town and Water Department, if necessary as identified in the Water Department Consulting Engineer's review.

K. Requests for "Will Serve" letters for Large Projects

(1) Request Fee

A Will Serve Letter request fee as provided in Chapter 73 of two hundred fifty (\$250.00) dollars shall be submitted upon the filing of the application. Said fee shall be used by the Town to cover the professional and administrative costs associated with the review of the request.

(2) Request Review

Requests for Will Serve letters as defined above shall be reviewed by the Water Engineer, who in-turn will provide a recommendation to the Water Committee. A Will Serve Letter shall be issued provided a determination is made that there is currently



adequate capacity in the Town's water supply systems based on a firm capacity calculation as defined by the NJDEP in *NJAC 7:10-11.6(a)*, using a peak daily demand as defined herein and prescribed under *NJAC 7:10-11.4(a) (7)*, as well as sufficient water allocation established by the NJDEP in its Water Allocation permits issued to the Town of Clinton Water Department.

(3) Review Determination

The Water Committee shall approve or deny the request within sixty (60) business days of receipt of a request. The Town reserves the right to extend the time for the rendering of the aforesaid decision for a period not to exceed thirty (30) business days if additional time is required for processing said application. The failure of the Town to render a decision within the aforesaid time period shall constitute a denial of the request without prejudice.

(4) Expiration of Will Serve Letter

All Will Serve Letters will expire ninety (90) days after the date of issuance by the Clinton Water Department. Upon expiration, the applicant relinquishes their rights to their approved "Will Serve", and said allocation will be available for future applicants.

Upon written request by the applicant prior to the afore-mentioned expiration date, applicants can request said approval be extended. Applicants will be eligible for no more than three (3) additional ninety (90) day extensions should they be requested. Under no circumstances will an applicant be granted additional extensions other than what is previously indicated above. Upon expiration of the requested extension(s), the applicant relinquishes their rights to their approved "Will Serve", and said allocation will be available for future applicants.

(5) Extension Request Fee

A Will Serve Letter extension request fee as provided in Chapter 73 of fifty (\$125.00) dollars (per occurrence) shall be submitted upon the filing of the extension request. Said fee shall be used by the Town to cover the professional and administrative costs associated with the review of the request.

**SECTION 8.** Upon adoption of this Ordinance, any and all outstanding commitments to serve development proposals which have not connected at the time of adoption, regardless of the form of commitment (in the form of "will serve" letter, oral or agreement, or other unofficial commitment) are hereby rescinded. These applicants, however, will have the opportunity and obligation to apply for water reservation, as described in this Ordinance. Water Reservations created in existing Water Agreements between the Town and a developer shall remain in effect.

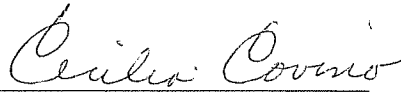
**SECTION 9.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 10.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

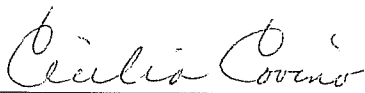
**SECTION 11.** This Ordinance shall take effect upon final passage and publication according to law.


ORDINANCE # 15-01

PLEASE TAKE NOTICE that the foregoing Ordinance was adopted on First Reading by the Town of Clinton Mayor and Council at a regular meeting held on February 10, 2015 and the same was ordered to be published according to Law with a public hearing and final consideration scheduled for March 24, 2015 at a meeting to begin at 7:30 p.m. at the Clinton Municipal Building, 43 Leigh Street, Clinton, New Jersey, at which time and place all interested parties will be heard.

  
Cecilia Covino, Clerk  
Town Clerk

ATTEST:

  
Cecilia Covino, Clerk

TOWN OF CLINTON  
  
Janice Kovach, Mayor

First Reading \_\_\_\_\_ February 10, 2015 \_\_\_\_\_

Published \_\_\_\_\_ February 18, 2015 \_\_\_\_\_

Second Reading \_\_\_\_\_ March 24, 2015 \_\_\_\_\_

Publication of Final Passage \_\_\_\_\_ April 1, 2015 \_\_\_\_\_

TOWN OF CLINTON

HUNTERDON COUNTY, NEW JERSEY

ORDINANCE # 15-02

ORDINANCE AMENDING CHAPTER 73 ENTITLED "FEES" OF THE GENERAL ORDINANCES OF THE TOWN OF CLINTON, COUNTY OF HUNTERDON, AND THE STATE OF NEW JERSEY REGARDING WATER CAPACITY RESERVATIONS

WHEREAS, the Water Committee of the Town of Clinton has recommended to the Mayor and Council that Chapter 73 of the Code of the Town of Clinton be amended to include fees governing applications for water reservations;

WHEREAS, there is a limited amount of water and production capacity in the water system operated by the Town of Clinton Water Department; and

WHEREAS, there is a substantial demand for new water capacity by various developers; and

WHEREAS, it is necessary to establish procedures for the allocation of the water among competing developers so that water capacity is fairly allocated; allocated in a way that benefits the system; and allocated in a way that does not lead to stale water applications tying up valuable capacity; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Clinton, the County of Hunterdon, that Chapter 73 entitled "Fees" of the Code of the Town of Clinton ("Code") is hereby amended as follows:

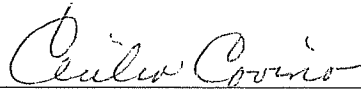
Section 73-3 of the Code of the Town of Clinton entitled, "Schedule of Fees and Charges" is hereby amended as follows:

F. Water Supply Systems


Activity	Fee
Small Project Water Reservation Application/Renewal	\$250.00
Small Project Will Serve Letter Request	\$100.00
Small Project Will Serve Letter Extension Request (Per Occurrence)	\$50
Large Project Water Reservation Application/Renewal	\$1,500.00
Large Project Will Serve Letter Request	\$250.00
Large Project Will Serve Letter Extension Request (Per Occurrence)	\$125.00

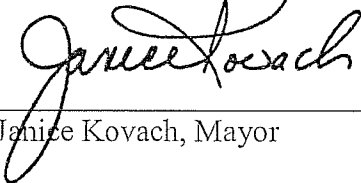
ORDINANCE # 15-02

PLEASE TAKE NOTICE that the foregoing Ordinance was adopted on First Reading by the Town of Clinton Mayor and Council at a regular meeting held on February 10, 2015 and the same was ordered to be published according to Law with a public hearing and final consideration scheduled for March 24, 2015 at a meeting to begin at 7:30 p.m. at the Clinton Municipal Building, 43 Leigh Street, Clinton, New Jersey, at which time and place all interested parties will be heard.

  
Cecilia Covino, Clerk  
Town Clerk

ATTEST:

  
Cecilia Covino, Clerk

TOWN OF CLINTON  
  
Janice Kovach, Mayor

First Reading \_\_\_\_\_ February 10, 2015 \_\_\_\_\_

Published \_\_\_\_\_ February 18, 2015 \_\_\_\_\_

Second Reading \_\_\_\_\_ March 24, 2015 \_\_\_\_\_

Publication of Final Passage \_\_\_\_\_ April 1, 2015 \_\_\_\_\_