

ORDINANCE

AN ORDINANCE of the City of Hagerstown, Maryland, pursuant to provisions of the City Charter and the Code of the City of Hagerstown, Maryland, Chapter 238 and 240 to establish guidelines for Transferring Water and Wastewater Allocation. The Amendments also establish a Benefit Fee rate differential for Water Allocation for properties outside City Corporate Boundaries.

BE IT ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, that the following Code Amendments are hereby adopted.

§ 238-5 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CUSTOMER – COMMERCIAL

Any customer engaged in a trade or commerce.

CUSTOMER – COMMERCIAL RESIDENTIAL

Mixed use property that includes commercial and residential space.

CUSTOMER - INDUSTRIAL

Any customer whose primary business is the creation, fabrication or manufacturing of a product.

CUSTOMER – PUBLIC AUTHORITY

Property owned by a government agency

CUSTOMER – RESIDENTIAL

Property zoned specifically for dwelling for individuals or households and identified as a single family dwelling unit.

CUSTOMER – RESIDENTIAL-MULTI

Residential property designed with multiple separate housing units for individuals or households contained in one building or several building within one complex.

§ 238-10 Service connection charges.

A. The initial service connection charge for water service shall be due and payable at the time of application for water service and shall be determined in accordance with the following schedule of fees:

(1) Permits Required:

(a) Water service connection permit for the approval of all residential and nonresidential service.

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- (b) Allocation increase permit for the approval of all increases in the volume of water above the established allocation due to change in use, redevelopment, or any other cause resulting in the need for additional allocation.

G. Water Benefit charge.

(1) General.

- (a) In addition to all other charges, fees and assessments there is hereby established a water benefit charge. A water benefit charge shall be assessed for all properties currently served and new customers requesting water service. The water benefit charge shall be the amount or amounts equal to the product of the allocation established by the City in annual average of the gallons used per day multiplied by the current established benefit charge rate per gallon. The Mayor and Council may establish a different benefit charge for service within the City's corporate boundaries from that established for service outside the City's corporate boundaries. The Mayor and Council of the City of Hagerstown shall, by ordinance, fix, establish and adjust the amount of the minimum benefit charge(s) and the amount of the benefit charge rate(s) per gallon of allocation, in accordance with the Charter of the City of Hagerstown. If, for any reason, the benefit charge is not paid when due, then the outstanding balance owed will constitute a lien on the property served and be collectible in accordance with applicable legal remedies.
 - (b) The water benefit charge is due and payable prior to the approval and issuance of any permits for improvements on a property. [
 - (c) Administrative policies for the water benefit charge shall be established by the Water and Sewer Department and shall be available at the Water and Sewer Department and the office of the City Clerk.
- (2) Residential customers. All individually metered residential properties will have a minimal allocation for service of 200 gallons per day per dwelling unit. This allocation shall not be adjusted except for changes in the number of dwelling units or changes to nonresidential use.
- (3) Residential and Residential-Multi customers. All master metered residential and residential-multi properties will have a minimum allocation of 100 gallons per day per dwelling unit. Additional allocation may be purchased for a maximum of 200 gallons per day per unit based on annual average usage per dwelling unit for approved units at the time allocation was established.
- (4) Nonresidential customers.
- (a) General. All nonresidential customers shall pay for each gallon of allocation based on the customer's annual average daily usage. Usage shall be averaged for the billing periods in each calendar year. The minimum allocation for all service connections shall be 100 gallons per day.
 - (i) The estimated daily volume of water usage by a customer shall be determined by the Water and Sewer Department from the previous, current and/or anticipated amount of water consumption and other factors considered significant by the

Water and Sewer Department and/or from information provided by the applicant or other approved sources.

- (ii) Allocation shall not be increased unless the following requirements are met:
 - (a) Owner shall make application to the Water and Sewer Department in writing a minimum of six (6) months prior to exceeding the established property allocation when a change in process, production, number of units, redevelopment, or any other change in property use that may or shall result in exceeding the established property allocation.
 - (b) Should the annual average daily usage exceed the established allocation by 100 gallons per day or greater and the owner has not made application as required in Section G(3)(a)(ii)(a) to purchase additional allocation, the City has the authority to terminate water service in accordance with Section 238.17 of City Code.
 - (c) If the daily average usage exceeds the established allocation and application has not been made for the purchase of additional allocation, the owner will be charged the applicable residential rate per Section 238.44.B for Inside Customers and Section 238.45.B for Outside Customers.
- (b) New customers. The water benefit charge shall be levied upon an applicant for water service or a building permit based upon the allocation established with the approval of an application for water service. The initial fee shall be calculated in accordance with the benefit charge administrative policies and this article.
- (c) Existing customers. The Water and Sewer Department shall notify each nonresidential customer of the proposed allocation for said customer who, on the date of the adoption of this article, is a customer. The allocation assignments for existing nonresidential customers shall be based on previous water use patterns. Unless a customer shall inform the Water and Sewer Department, in writing, within 30 days of receipt of said notification of allocation of his intention to file a written request for an allocation increase, and unless, said customer shall have filed said written request within 90 days of his receipt of said notification of allocation, the proposed allocation shall be the established allocation for the customer, and any subsequent written request by him for an allocation increase shall be subject to a water benefit charge in accordance with the provisions of this article. All written requests for an allocation increase shall be handled in accordance with the provisions of this article and the administrative policies.
- (d) Modification. If as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by a nonresidential customer has been less than the established allocation for said customer by 100 gallons per day or more for at least one year, the Water and Sewer Department may notify the owner or his agent thereof that his established allocation will be reduced to the proposed allocation as determined by the Water and Sewer Department. When notified by the Water and Sewer Department of such decrease, owner or his agent, shall then have a total of 90 days from the date of receipt of said notification to file a request to again increase his established allocation.

If the owner or his agent does not file an application for an allocation increase, then the new reduced allocation amount as determined by the Water and Sewer Department shall automatically take effect. If however, the owner exceeds this new determined allocation but stays within his original allocation for three consecutive years, the owner or his agent will not be assessed any additional benefit charge and the established allocation will be increased consistent with the highest annual average usage for the prior three year period. The approving authority shall have the right to apply any allocation amount that is taken from a customer, or an owner or his agent, to another customer, owner or his agent. If, as a result of reviews conducted by the Water and Sewer Department, it is determined that the volume of water usage by any nonresidential customer shall be greater than the established allocation for said customer by 100 gallons or more for at least one year the Water and Sewer Department may notify said owner of his new established allocation and he shall have the same rights to request a decrease in the allocation as provided in this subsection for a customer whose allocation has been decreased. If the new allocation as finally determined hereunder is higher the owner will be charged at that level of allocation.

(5). Transfer of Allocation

- (a) Transfer of allocation shall only be permitted for properties with purchased allocation. Allocation assigned when the Benefit Fee Rules and Regulations were adopted cannot be transferred.
- (b) Transfer of allocation shall only be permitted when the existing established allocation is 1,500 gallons per day or greater. One thousand gallons per day allocation (1,000) shall remain with each property. Transfer of allocation is not authorized when the existing allocation is equal to or less than 1,000 gallons per day. Property shall be zoned for commercial or industrial development.
- (c) Transfer of allocation may be authorized one time for property zoned commercial or industrial. In the event a property is sold, transferred, etc. and allocation was previously transferred, additional allocation transfer shall not be permitted. Transfer of allocation shall be between properties shall be located within the same government jurisdiction (either City or County) and located in the Medium Range Growth area (MRGA).
- (d) Property Redevelopment. Transfer of allocation shall be authorized on properties with 2 or more parcels or lots within the redevelopment plan provided there is excess established allocation on one or more parcel or lot in the redevelopment plan. Property shall be zoned for commercial or industrial development and
- (e) Transfer of allocation from properties located inside municipal limits to properties outside municipal limits but within the MRGA may be authorized in accordance when the properties are zoned commercial or Industrial.
 - (i) The allocation transfer must comply with 238.10.G.5.(a).
 - (ii) The allocation transfer shall only occur when the highest average annual usage for the previous three years remains with the property.

- (iii) Transfer of allocation from properties zoned commercial or industrial located inside municipal limits to properties zoned commercial or industrial zoned located outside municipal limits and within the MRGA, is contingent upon recommendation from the Director of Planning and Code Administration and the Director of Utilities to, and approval by, the Mayor and City Council.
- (f) Payment of Benefit Fee differential for outside customers shall be required when allocation is transferred from a municipal property to a property located outside Hagerstown corporate boundaries.
- (g) All City Code requirements and City Policies pertaining to Water service remain in full effect.
- (6) Benefit charge rate. The Mayor and Council of the City of Hagerstown shall by ordinance fix and establish the amount of benefit charge rate per gallon of allocation in accordance with the Charter of the City of Hagerstown. If for any reason the benefit charge is not paid when due, then the outstanding balance owed by the property owner shall constitute a lien on the property served and shall be a collectible in accordance with Article 23(a) of the Annotated Code of Maryland. The benefit charge rate per gallon shall be assessed as follows:

Inside Water Benefit Charges						
Benefit Fee	Current	FY20	FY21	FY22	FY23	FY24
Per gallon	\$12.50	\$12.88	\$13.27	\$13.67	\$14.08	\$14.50
Minimum: 200 gallons	\$2,500	\$2,576	\$2,654	\$2,734	\$2,816	\$2,900
Outside Water Benefit Charges						
Benefit Fee	Current	FY20	FY21	FY22	FY23	FY24
Per gallon	\$12.50	\$12.88	\$13.27	\$13.67	\$28.16	\$29.00
Minimum: 200 gallons	\$2,500	\$2,576	\$2,654	\$2,734	\$5,632	\$5,800

Outside Benefit Charges shall become effective on October 1, 2022.

§ 240-16 Classes of permits.

There shall be three classes of sanitary sewer service permits:

- C. Allocation increase permit, for the approval of any increase in the volume of acceptable wastewater above the established allocation to include change in use, redevelopment, or change in property use resulting in the need for additional allocation.

§ 240-20 Allocation procedure.

To preserve the integrity of the WPC system as it is designed to function, the approving authority shall maintain a controlled allocation of wastes to be discharged into said system. The approving authority shall establish an appropriate allocation to each applicant for a permit prior to the approval of the application for said permit. The approving authority shall establish an appropriate allocation for each **multiple-unit residential customer** and for each nonresidential customer. Each allocation shall be based upon the estimated daily volume of wastewater to be discharged or being discharged into the WPC system, as determined by the approving authority.

A. Allocation shall not be increased unless the following requirements are met:

- (1) Owner shall make application to the Water and Sewer Department in writing a minimum of six (6) months prior to exceeding the established property allocation when a change in process, production, number of units, redevelopment, or any other change in property use that may or shall result in exceeding the established property allocation.
- (2) Should the annual average daily usage exceed the established allocation by 100 gallons per day or greater and the owner has not made application as required in Section G(3)(a)(ii)(a) to purchase additional allocation, the City has the authority to terminate water service in accordance with Section 238.17 of City Code.
- (3) If the daily average usage exceeds the established allocation and application has not been made for the purchase of additional allocation, the owner will be charged the applicable residential rate per Section 240.63 for Inside Customers and Section 240.64 for Outside Customers.

§ 240-25 Transferability of allocation location.

The allocation established for any applicant for a permit as specified in this article shall be for the location specified in the application for said permit, and said established allocation shall not be transferable to any other location unless otherwise authorized as follows:

A. Transfer of Allocation

- (1) Transfer of allocation shall only be permitted for properties with purchased allocation. Allocation assigned when the Benefit Fee Rules and Regulations were adopted.
- (2) Transfer of allocation shall only be permitted when the existing established allocation is 1,500 gallons per day or greater. One thousand gallons per day allocation (1,000) shall remain with each property.

- (3) All properties involved shall be zoned for commercial or industrial development.
- (4) Transfer of allocation may be authorized one time for property zoned commercial or industrial. In the event a property is sold, transferred, etc. and allocation was previously transferred, additional allocation transfer shall not be permitted.
- (5) Transfer of allocation shall be between properties shall be located within the same government jurisdiction (either City or County) and located in the Medium Range Growth area (MRGA).
- (6) Property Redevelopment. Transfer of allocation shall be authorized on properties with 2 or more parcels or lots within the redevelopment plan provided there is excess established allocation on one or more parcel or lot in the redevelopment plan.
- (5) Transfer of allocation from properties located inside municipal limits to properties outside municipal limits but within the MRGA may be authorized in accordance when the properties are zoned commercial or Industrial. For properties in the Joint Sewer Service Area (JSSA), all requirements of the JSSA must be met.
 - (a) The allocation transfer must comply with 240-25.A.(1).
 - (b) The allocation transfer shall only occur when the highest average annual usage for the previous three years remains with the property.
 - (c) Transfer of allocation from properties zoned commercial or industrial located inside municipal limits to properties zoned commercial or industrial zoned located outside municipal limits and within the MRGA, is contingent upon recommendation from the Director of Planning and Code Administration and the Director of Utilities to, and approval by, the Mayor and City Council.
- (6) Payment of Benefit Fee differential for outside customers shall be required when allocation is transferred from a municipal property to a property located outside Hagerstown corporate boundaries.
- (7) All City Code requirements and City Policies pertaining to Wastewater service remain in full effect.

§ 240-27 Review of established allocation.

The approving authority shall review and assess the actual daily volume of sewage, waters, wastes and wastewaters being discharged into the water pollution control system by its customers. If, as a result of these reviews, it is determined by the approving authority that said volume of discharge of any customer has significantly exceeded his established allocation, the approving authority may notify said the owner thereof, and the owner or his agent, shall, within 30 days of receipt of said notification, file an application for an increased allocation permit in accordance with this article. If the amount of increased discharge above the established allocation is determined by the approving authority to be 50 gallons per day or more, the approving authority shall notify the owner or his agent (except single-family residences or single-family residential units) as specified herein.

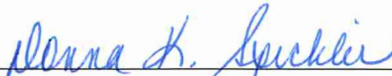
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§ 240-28 **Reduction of established allocation.**

If, as a result of reviews conducted by the approving authority as specified in this article, it is determined by the approving authority that the volume of sewage, waters, wastes and wastewaters being discharged into the water pollution control system by any customer has been less than the established allocation for said customer by 50 gallons per day or more for at least one year, the approving authority shall notify said the owner or his agent thereof, that his established allocation shall be reduced to a proposed allocation as determined by the approving authority. The owner or his agent shall then have a total of 90 days from the date of receipt of said notification to file an application to again increase his established allocation. If the customer, or the owner or his agent, does not file an application for allocation increase, then the new reduced allocation amount as determined by the approving authority automatically takes effect. If, however, the owner or his agent, exceeds this new determined allocation but stays within his original allocation for three consecutive years, the owner or his agent will not be assessed any additional benefit charge and the established allocation will be increased consistent with the highest annual average usage for the prior three year period.. The approving authority shall have the right to apply any allocation amount that is taken from a customer, or an owner or his agent, to another customer, owner or his agent.

BE IT FURTHER ENACTED AND ORDAINED that the Ordinance shall be effective thirty (30) days after passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL



Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND



Emily Keller, Mayor

DATE OF INTRODUCTION: 07/26/2022
DATE OF PASSAGE: 08/23/2022
EFFECTIVE DATE: 09/23/2022

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