



CITY OF KANNAPOLIS WASTEWATER ALLOCATION POLICY

Adopted by the Kannapolis City Council December 1, 2021

Amended February 14, 2022

Amended February 28, 2022

Amended July 24, 2023

I. Purpose and Intent.

The City of Kannapolis (“City”) has invested substantial capital in the infrastructure necessary to support a growing, prosperous, and healthy community. Wastewater treatment capacity is among the most important elements of this infrastructure. Since 1992 this service has been provided to the City by the Water and Sewer Authority of Cabarrus County (“WSACC”). The intent of this policy is to provide for the judicious allocation of these resources in conformity with the growth-related priorities of the Kannapolis City Council which are established and/or reconfirmed in this policy. Further, the underpinning structure of this policy is to achieve a fair and reasonable balance between public interests and private interests. This policy is intended to manage the remaining capacity available until additional capacity is developed through the expansion of the Rocky River Regional Wastewater Treatment Plant (“RRRWWTP”) which is owned and managed by WSACC as well as manage future capacity. This policy will be reviewed periodically to ensure it is achieving the intended purpose.

II. Scope.

In November 2021 an Interlocal Wastewater Capacity Allocation Agreement (the “Allocation Agreement”) was executed by WSACC and all of its member jurisdictions. This agreement provides for a method of distributing all available WSACC wastewater treatment capacity to each member jurisdiction under an agreed-upon formula.

The scope of this policy is to provide for a fair and reasonable allocation of the City’s available wastewater capacity per the Allocation Agreement to meet the needs of both public and private land development interests. Because wastewater capacity is not an endless resource, it is highly unlikely that all applications for wastewater allocation will be approved. Additionally, those that are approved will be subject to certain conditions, some of which may include adherence to a multi-year phasing plan.

A significant factor influencing the development of this policy is that the collective demand from private sector development requests (formal and informal) exceeds the current and planned capacity of the RRRWWTP. Accordingly this is a “point in time” policy in that it allocates a finite amount of sewer treatment capacity to specific projects over the course of approximately seven to ten years. The capacity is projected to be available in four phases:

- A. Phase I. Existing capacity between now and the first expansion of the RRRWWTP expected by mid-2024.
- B. Phase II. Capacity at the time of the first expansion of the RRRWWTP in 2024 to the time of the second expansion of the RRRWWTP expected by early-2027.
- C. Phase III. Capacity at the time of the second expansion of the RRRWWTP in 2027 to a point in time where there is no remaining unallocated capacity *or* when an expected third expansion of the RRRWWTP is completed. The third expansion timeframe has not been determined at the time of this policy adoption. This expansion is expected to occur between 2027 and 2030 depending on an acceleration of permitting, funding commitments and the ability to layer this expansion on the second expansion from a timing and engineering standpoint.
- D. Phase IV. Capacity at the time of the Phase III expansion to a to-be-determined future time dependent upon the size of this expansion.

III. Policy Applicability.

- A. All development within the City which requires development approval in accordance with the Kannapolis Development Ordinance will be required to make a request for a wastewater treatment capacity allocation permit (“Allocation Permit”). Any existing development approval - with or without an Allocation Permit - that is modified or expanded in any way shall be considered a new allocation and will require a new Allocation Permit. More specifically, any increase in sewer collection/treatment impacts, including discharge limits and volume allocation will require a new Allocation Permit which may be subject to a fully executed Development Agreement.

In general, parcels of land with an existing wastewater service connection at the time of the adoption of this policy is considered to have an existing wastewater treatment capacity allocation based on current land and/or building use. A parcel of land with no wastewater service connection at the time of the adoption of this policy is considered to not have an existing wastewater treatment capacity allocation.

Approval of a new or modified Allocation Permit will be at the sole and absolute discretion of the City and shall be in accordance with this policy.

- B. Notwithstanding the provisions of Section III.A, the following types of developments are exempt from the requirements of this policy:
 - 1. A single- or two-family home on one existing, recorded lot at the time of the adoption of this policy.

2. Exemption Plats consisting of less than two (2) acres subdivided into no more than three (3) lots.
3. New or expanded accessory building.
4. New additions or interior renovations to existing residential buildings.
5. Property serviced by a septic system which will not be connected to the City’s wastewater system.

IV. General Policy.

The City seeks to grant wastewater allocations in a way that supports economic growth, economic diversity, strengthening of the tax base, creation of jobs, promotion of high-quality development and maximization of existing infrastructure and service delivery capacity. To provide a foundation for this policy, the Kannapolis City Council hereby adopts the following broad development priorities and determines that they are in the best interests of the City, its citizens and stakeholders.

This policy provides that all development projects seeking an Allocation Permit fall into one of four (4) categories as described below. The priorities are rank ordered (first being most important).

- A. Priority 1: Projects with prior City Commitments. Due to the commitment by the City of significant financial resources and/or contractual obligations, the following development projects shall be issued an Allocation Permit which will support the project commencement and completion. These projects may be subject to a phasing plan as depicted in Exhibit A which is attached hereto and incorporated herein by reference. This is a “point in time” priority that will no longer be applicable after this policy is adopted. The Allocation Permits issued for these projects may be subject to a new or amended Development Agreement at the sole discretion of the City.

Project	Development and/or Purchase Agreement	City Financial Commitments
Kannapolis Crossing	Yes	Off-Site Water and Sewer
Lakeshore Corporate Park (old baseball stadium)	Yes	Street Improvements
Downtown Block 4A	Yes	Downtown Infrastructure
Downtown Block 4B	Yes	Downtown Infrastructure
Downtown Block 5	Yes	Downtown infrastructure
Downtown Block 6	No	Downtown Infrastructure
Gateway Business Park (7-acre tract)	Yes	Construction of Business Park
Gateway Business Park (1.6-acre tract)	Yes	Construction of Business Park

- B. Priority 2: Strategic Reserve. This priority consists of a strategic reserve of wastewater treatment capacity to support future projects or development sites that support the general policy statement at the beginning of this Section IV. These projects fall into a wide range of the development process from conceptual to preliminary plat or preliminary site plan submittal. In some cases no specific project will have been identified and only a high-level development carrying capacity estimate (density and design) for a particular site will be used. This estimate will be prepared by the City. Further, a reserve amount for a general land development category

(and not a specific site) may be set aside. The decision to set aside capacity for these projects, future sites and development categories will be at the sole discretion of the City and will be delineated on Exhibit A. Exhibit A will be revised over time as described in Section V.C. Generally these projects, project sites or development categories are expected to have significant positive community impacts. These strategic reserve projects, sites and development categories are intended to align with the following strategic priorities:

1. **Recent City investments.** These are projects or project sites served by water, sewer, stormwater, street, buildings or other such public investments currently secured by current City debt obligations.
2. **Downtown development.** These are projects or project sites: 1) located in the Municipal Service District; and 2) owned by the City of Kannapolis or Castle & Cooke (or its affiliated companies or its successors in title).
3. **Economic Development.** These projects or project sites include commercial, office and industrial development (and similar uses) which create significant tax base, create jobs and require limited public resources.
4. **Improved City services or infrastructure.** These are projects that, if developed, will result in significant improvements to existing City services or infrastructure through private financial participation. Examples may be partnerships on water or sewer extensions that improve fire protection or water pressures or dedication of land for a public park. The improvements must be substantial in nature including a significant private commitment of funding or other public asset development.
5. **Infill Development.** These are relatively small residential or non-residential projects that generally are in locations with existing access to water and sewer services. These projects are important to support a diverse housing and commercial development stock in the City. No City investment is necessary for development success. For single family residential projects they are only part of minor subdivisions or major subdivisions up to 20 total lots. Generally, allocation for these project types will be in the form of a set-aside amount of reserve capacity allocated every six (6) months. Accordingly, there may be more demand than capacity set aside for infill development.

Every six (6) months, if the decision is made to allocate a capacity set-aside for infill Development, a call for infill projects will be promoted. Upon the close of the call period, the City's Planning Department shall be responsible for evaluating and ranking the projects using substantially the same process described in Section V for all other projects.

6. **Affordable Housing.** These are a diverse range of projects that can be owner occupied or rental products intended to provide housing to low- to moderate-income families and individuals. They can include large and mid-sized multi-family projects, tiny home/pocket development projects or traditional single family attached and detached projects. Partnerships among private developers, City, county, State or non-profit agencies will be common. Generally, support for these project types will be in the form of a set-aside amount of reserve capacity allocated every six (6) months. Accordingly, there may be more demand

than capacity set-aside for affordable housing development. Every six (6) months, if the decision is made to allocate a capacity set-aside for affordable housing, a call for projects will be promoted. The City's Community Improvement Commission shall be charged with setting evaluation criteria and making a recommendation to City Council on which projects should be granted Allocation Permits. City Council's decision on these Permits shall be final.

- C. Priority 3: Previously Approved Projects. Due to existing substantial financial and operational commitments of private sector development entities based on good faith preliminary plat or preliminary site plan approvals by the City at the time this policy is adopted, these projects will be considered for allocation of necessary sewer treatment capacity to support the project commencement and completion. Projects with preliminary plat or preliminary site plan approval must adhere to the application procedures described in Section V of this policy. If, at any time there exists greater sewer treatment demand than there is available sewer treatment capacity, the ranking procedures in Section V shall determine how the available capacity is allocated. These projects may also be subject to a phasing plan as described in Exhibit A. This is a "point in time" priority that will no longer be applicable after this policy is adopted.
- D. Priority 4: Waiting List Projects. These are projects that are not included in Section IV, subsections A, B or C above. The projects in this priority category become part of a waiting list and they are delineated as such on Exhibit A. Initially, upon adoption of this policy these are all projects that have an approved preliminary plat or preliminary site plan but do not score high enough on the scoring matrix to secure an Allocation Permit through Phase III (2027) as described in Section IV.C and Section V. Should additional wastewater capacity become available from WSACC or from projects not proceeding expeditiously in accordance with this policy, then projects on the waiting list will become eligible for requesting an Allocation Permit. Prior to considering approval of an Allocation Permit for a project on the waiting list, the City Planning Department shall review the project plan and re-affirm and/or update the scoring matrix results based on any changes that may have been made to the project. This potential for assigning additional allocation will only occur once every six (6) months after receiving updated capacity reports from WSACC (expected by the end of January and July of each year) except in extraordinary circumstances as approved by the City Manager. Projects that have secured preliminary plat or preliminary site plan approval at the time of the adoption of this policy shall be given first consideration for additional allocation over other projects.

V. Procedure.

- A. The owner or developer of any project requiring an Allocation Permit from the City shall submit a written application via a form provided by City staff, for an allocation reservation. The application shall include detailed information on the amount of capacity necessary to serve the project, the nature of the project, project schedule and phasing in relation to demand of utility capacity, and other supporting information demonstrating how the project serves the needs and interests of the City. In the case of industrial flows, additional information associated with the constituents shall be required and may be subject to other ordinances or policies of the City and WSACC.

All Allocation Permit applications shall also include a completed residential or non-residential scoring matrix attached

hereto as Exhibit B and Exhibit C. Proposed projects can gain bonus points for positive community impacts by the applicant offering to commit to items listed on the matrix as part of a development proposal. The matrix also includes a subtraction of points for negative community impacts. It shall be the responsibility of the applicant to provide evidence of all points claimed in the matrix. This evidence can be included as part of the project's preliminary site plan or preliminary plat submittal or with supplemental information. The City's Planning Department will review the submitted matrix. The Planning Director shall have the final authority to approve, approve with modifications or reject the matrix.

The scoring matrix shall be the primary factor in ranking projects described in Section IV.C and IV.D although in some circumstances, sewer demand impacts, project phasing and project commencement timing may play a role in the decision-making process. Two or more scoring matrices with the same score shall be ranked first by the date in which a preliminary plat or preliminary site plan is approved by the City and second in order of the Allocation Permit application submittal dates. Scoring matrix ties are the only situation where the time and date of any permit application or plan/plat approval shall apply to an Allocation Permit decision.

Applications for Allocation Permits may be submitted to the City's Planning Department at any time however specific deadlines for consideration of the applications and corresponding review schedules will be established by the Planning Department. All applications submitted after the adoption of this policy shall automatically be placed on the waiting list described in Section IV.D.

- B. Projects described in Section IV.A and IV.B are exempt from submitting a written application for wastewater treatment capacity allocation, but an Allocation Permit and in some cases a corresponding fully executed Development Agreement shall be issued by the City prior to construction commencing. Notwithstanding the above, infill projects shall be required to submit a written application in that there may be more projects than available capacity as described in Section IV.B.5.
- C. In accordance with the Allocation Agreement, every six (6) months the updated wastewater treatment capacity available to the City from WSACC will be reconciled with a list of projects that have applied for but have not yet received an Allocation Permit. At this time the City will consider allocating some or all of its then available wastewater treatment capacity to strategic reserve projects described in Section IV.B and to those competing projects described in Section IV.D based on the scoring matrix. There is no guarantee of any project receiving an Allocation Permit.

The assignment of any additional sewer treatment capacity allocation will only occur once every six (6) months except in extraordinary circumstances as approved by the City Manager. Prior to the issuance of Allocation Permits City Council will approve a revised Exhibit A after receiving updated capacity reports from WSACC (expected by the end of January and July of each year).

- D. Due to weather related factors, the regulatory environment, and the dynamic nature of wastewater flow and treatment, accounting of available capacity is, by its very nature, inexact and subject to change. The City will continually track allocation reservations granted and the amount of capacity available. Such reports do not constitute a policy statement, commitment

or guarantee on the amount of capacity available for allocation.

- E. Allocation Permits issued by the City will reserve the approved wastewater treatment plant capacity and permit the completion by the applicant of construction drawings. The Allocation Permit issued by the City will be followed by the corresponding final allocation approval by WSACC following the final approval of construction drawings by the City.
- F. Some projects, because of their large size, non-traditional nature, multi-phase nature, complexity, or location require a long-term commitment of public and private resources and annual monitoring to achieve success. The Allocation Permits issued for these projects may be subject to a new or amended Development Agreement at the sole discretion of the City
- G. Allocation Permits are not transferrable except upon written consent of the City.

VI. General Conditions

- A. This policy shall replace any previous practices or policies on wastewater treatment capacity allocations adopted by the City.
- B. Due to the limited wastewater treatment capacity, it is the intention of this policy to prohibit “capacity banking” where valuable wastewater treatment capacity is allocated but not used by a development project within a reasonable timeframe. More specifically, the following allocation execution timeframes shall apply to the priority categories described in Section IV A-D above.
 - 1. Projects listed in Section IV.A must proceed diligently to secure preliminary site plan or preliminary plat approval within one (1) year of the adoption of this policy. Further, these projects must submit final construction drawings to the City within 180 days of securing approval of the preliminary plat or preliminary site plan *and* must commence with off-site and/or on-site water and sewer line installation or installation of water and sewer connections within 180 days of securing final construction drawing approval. In cases where no utility extensions are necessary, construction permits must be obtained and building foundations constructed within 180 days of construction drawing approval.
 - 2. Projects granted strategic reserve allocations described in Section IV.B must secure preliminary site plan or preliminary plat approval within 120 days of the written notice of the intent of the City to approve such allocations. Further, these projects must submit final construction drawing approval to the City within 180 days of securing approval of the preliminary plat or preliminary site plan *and* must commence with off-site and/or on-site water and sewer line installation or installation of water and sewer connections within 180 days of securing final construction drawing approval. In cases where no utility extensions are necessary, construction permits must be obtained and building foundations constructed within 180 days of construction drawing approval. Notwithstanding the previous sentence, residential infill projects where no new infrastructure is necessary (as described in Section IV.B.5) or those that have a valid preliminary plan or plat approval prior to February 14, 2022, must secure construction permits and complete building foundations for a minimum of two (2) dwelling units within the first 180 days of receipt of a Sewer Allocation Permit

(or the associated Development Agreement if required) and must complete two (2) additional building foundations in each successive 180-day period thereafter.

3. Projects with previous preliminary plat or preliminary site plan approval in accordance with Section IV.C which are granted sewer treatment allocation must submit construction drawings to the City within 180 days of the approval of an Allocation Permit (or the associated Development Agreement if required). Further, these projects must commence with off-site and/or on-site water and sewer line installation within 180 days of construction drawing approval. In cases where no utility extensions are necessary, construction permits must be obtained and building foundations constructed within 180 days of construction drawing approval.
4. Projects on the waiting list described in Section IV.D that are ultimately granted an Allocation Permit shall comply with allocation execution timeframes describes in Section VI.B.3 above. A Development Agreement may be required for these projects.

For large, multi-phase projects, an approved phasing plan will include specific timing of construction drawing submittals that will generally adhere to the principles in this subsection VI.B; however the first phase must comply with the timeframes of this subsection. Notwithstanding the above, if contractual obligations between a developer and the City provide a different schedule for securing these approvals the contractual obligations shall become the requirement.

Upon request by the project applicant and at the discretion of the City Manager or designee, an allocation execution timeframe may be extended one time for no more than a ninety (90) day period. Such requests must provide documentation of extenuating circumstances causing the need for the extension.

An Allocation Permit will expire if a project has not progressed in accordance with the timeframes described in Sections VI.B above and any approved extensions and more specifically in accordance with the associated Development Agreement if such an agreement is required. Projects with an expired Allocation Permit will be required to submit a new application. These projects will be placed on the waiting list described in Section IV.D with its ranking based on the new application and scoring matrix results.

- C. Some projects will be required to be phased and such phasing plans will be depicted on Exhibit A. The final decisions on project phasing will be at the sole discretion of the City Manager or designee due to the phased nature of sewer treatment capacity increases and the intent to provide a fair and equitable allocation of capacity to as many development projects as possible. Phasing plans will be included in the Development Agreement associated with the Allocation Permit should such an agreement be required.
- D. If a project is unsuccessful in obtaining any required Federal, State, or local government permit or approval the allocation shall be retracted. The City shall bear no liability for any costs incurred by the applicant, or any further responsibility in the matter.
- E. Granting of a wastewater treatment capacity allocation does not imply or confer approval of

any other applications or reviews as may be required by City Ordinance or policy and does not imply or create any vested right.

- F. This policy shall be reviewed annually and, when appropriate, modified by City Council. The City's overall progress on policy goals will be considered and the criteria and/or point thresholds in the scoring matrix (Exhibit B) may be adjusted accordingly. Exhibit B is attached hereto and incorporated herein by reference.

VII. Appeals Process

Any issue relating to a scoring matrix decision assigned to any project may be appealed to the Scoring Matrix Review Committee ("Committee") which is appointed by the City Manager. A final decision shall be rendered by the Committee within ten (10) business days. Such decision may be appealed to the City Manager who shall render a final decision within ten (10) business days. Notice for any appeal shall be delivered to the City Clerk for scheduling within five (5) business days following notice of the final decision by written notice or e-mail from the Planning Director or the Committee. City Council approval of Exhibit A as described in Section V.C shall not be adopted until any and all appeals then existing have been completed.

VIII. Term.

This Policy shall be effective on and after December 13, 2021. In accordance with the Allocation Agreement this policy shall remain in effect until the earlier of (a) January 1, 2025, (b) the date upon which WSACC's expansion of the RRRWWTP comes online with 30 MGD treatment capacity, or (c) termination of the Allocation Agreement by WSACC.