

POLICY FOR ALLOCATION
OF THE LIMITED SEWER FLOW CAPACITY
AVAILABLE UNDER ENVIRONMENTAL MANAGEMENT
COMMISSION CONSENT ORDER WQ S05-002

BACKGROUND

- The City's Special Order by Consent (SOC) allows an initial ALLOCATION of 300,000 gallons per day (gpd) of permitted sewer extensions from the date the SOC is signed by the State until 12/1/07 (appx. 30 months or 2 ½ years)
- 150,000 gallons per day additional ALLOCATION on 12/1/07 presuming all milestones have been achieved to date.
- 150,000 gallons per day additional ALLOCATION on 7/1/08 presuming all milestones have been achieved to date. Some of the milestones would be the start of construction for a new lagoon on Venters property (Phase 1A), start of construction for irrigation system improvements on existing LTS property (Phase 1B), and contemporaneous City upgrades of the Barrus & Henderson Drive Pump Station Force Mains, etc.
- July 1, 2009—this ends Phase 1 work. The size of the new lagoon and number of seasonably-suitable spray field acres will determine this ALLOCATION. Also by this date, the final design to complete the upgrade from a 6 Million Gallon per Day (MGD) to 9 MGD facility will have been submitted with full completion of this project and termination of SOC on or before September 1, 2011.
- I & I repairs will allow for a REALLOCATION of sewer capacity upon completion of four sewer rehabilitation projects. For example, the Henderson Drive basin repairs will allow for approximately a 100,000 gpd reallocation once all repairs are complete. The remaining three sewer rehabilitation projects may generate similar results. If so, the total reallocation for these four areas could approach approximately 400,000 gpd. Malcolm Pirnie's (MP) timeline for the completion of all four sewer rehabilitation areas is mid-2008.

DEFINITIONS

For purposes of allocating sewer capacity under this policy, the following terms shall have the following meaning:

- a. Sewer Capacity Allocation/Reallocation (hereinafter "ALLOCATION") shall mean an approval by City Council that the City's sewer system is available, except as may be ordered by State or Federal regulatory authorities, to serve as an

acceptable means for the disposal of sanitary sewage from the property(ies) for which an ALLOCATION has been requested. An ALLOCATION will be expressed in gallons per day (gpd) of sewage flow.

- b. Person: Any individual, firm, partnership, company, association, corporation, governmental entity or any other legal entity whose development or improvement of land requires the construction of new sewer mains. The City may require disclosure of the names of all persons who have a financial interest in any project requesting or having been granted an ALLOCATION.
- c. Used: A capacity ALLOCATION (or part thereof) shall be considered "used" when the City Engineering and State NCDENR- DWQ and PWS Divisions receive and approve the "Engineer's Certification of Construction" and "As-Built Record Drawings" for the water and sanitary sewer improvements serving the specific project that was granted the ALLOCATION.

SEWER ALLOCATION PLAN

Recognizing that the capacity of the wastewater treatment plant is limited to the constraints set by the SOC for new development and that the uncontrolled assignment of capacity could cause more growth and development than the City's wastewater system can accommodate, and pursuant to the SOC, this ALLOCATION plan will attempt to maintain a fair balance of residential, apartment, commercial and uncommitted uses. The flow allowed by the SOC will be allocated by the City Council in order to ensure fairness, equity, and use of the limited resource in the best interest of the City.

All "ALLOCATIONS" will be on a "first-come, first-served" basis by category; however, the City Council may grant first priority to any municipal project and supersede the first-come, first-served provision. Each project associated with a sewer ALLOCATION request must first meet all relevant City "application" requirements to be placed on the Council Agenda.

If an ALLOCATION granted by City Council is not "used" within 12 months after it is granted, the unused portion of said ALLOCATION will revert to the City and the PERSON will have to reapply to City Council.

City Council shall grant specific capacity ALLOCATIONS to the categories of residential (single-family and multi-family town homes, duplexes, etc), apartment, commercial (commercial and industrial), and uncommitted use as follows:

- 45% ~ Residential
- 30% ~ Apartment
- 10% ~ Commercial
- 15% ~ Uncommitted use

If any additional SOC ALLOCATIONS beyond the initial ALLOCATION become available to the City, and unless City Council has instructed otherwise, the additional development ALLOCATIONS will be granted utilizing the same method as stated above.

Therefore, for the first two and one-half (2 ½) years, the 300,000 gallon per day ALLOCATION break down is: Residential - 135,000 gpd; Apartments - 90,000 gpd; Commercial - 30,000 gpd and Uncommitted Use - 45,000 gpd.

Additionally, Council intends to allocate this 300,000 gpd on an annual basis until additional allocation is obtained, to wit: from July 1, 2005-July 1, 2006-approximately 120,000 gpd to be allocated, from July 1, 2006-July 1, 2007-approximately 120,000 gpd to be allocated, and from July 1, 2007-December 1, 2007-approximately 60,000 gpd to be allocated."

DISCLAIMER

The granting of a Special Use/Conditional Use Permit, rezoning request or any other act, outside of a direct ALLOCATION by Council, in no way grants assurance that an ALLOCATION is or will be available for the project/development.

This policy shall be in effect during the period the City of Jacksonville is subject to the provisions of EMC Consent Order Number S05-002.

APPROVAL REQUIREMENTS

- A. The approval of any Final Plat, Site Plan or Building Permit that requires the construction of new sewers shall be contingent on possession of a Sewer Capacity ALLOCATION adequate for the sewage flows expected to result from development of the property. Under this policy, an approved ALLOCATION shall be a prerequisite to the approval of all Final Plats and Site Plans and the issuance of all building permits for those structures that are not included in a final plat or site plan. City Council shall approve all ALLOCATIONS.
- B. Zero to 25,000 square foot structures of any type that requires a new sewer extension or in anyway impacts the ALLOCATION under the SOC will require Council action.
- C. There shall be an annual ALLOCATION of no more than 9,000 gpd for any residential project. For example, a project with twenty-five 3-bedroom homes would require a 9,000 gpd allocation based on State Code 15A NCAC 2H .0200.

D. There shall be an annual ALLOCATION of no more than 16,800 gpd for any apartment project. For example, an apartment complex with twenty-eight 2-bedroom and twenty-eight 3-bedroom units would require a 16,800 gpd allocation based on State Code 15A NCAC 2H .0200.

E. Approvals for Development:

The design of sewer extensions for the entire subdivision, project or other type DEVELOPMENT plan shall show all construction/plat and/or project phases and will be submitted for the required review and approval by Planning Board and the City Council. Utility plans for the DEVELOPMENT must be submitted to DWQ for review. An ALLOCATION must be requested by submitting a written letter to the Public Services Director requesting a sewer allocation amount (in gpd) concurrent with the request for approval of a general plan, a final plat, a building permit application, or with any other act that impacts the ALLOCATION under the SOC.

1. The request for allocation letter must state the calculated total capacity desired for the project and the basis of the calculation. (For example; Twenty-eight ~ 2-bedroom apartment units @ 240 gpd and twenty-eight ~ 3-bedroom apartment units @ 360 gpd = 16,800 gpd)
2. A capacity ALLOCATION (or part thereof) shall be considered "used" when the City Engineering and State NCDENR- DWQ and PWS Divisions receive and approve the "Engineer's Certification of Construction" and "As-Built Record Drawings" for the water and sanitary sewer improvements serving the specific project that was granted the ALLOCATION.
3. In reference to Residential, the ALLOCATION may be used for any lot within the project covered by the ALLOCATION.
4. No PERSON may receive, in any 12-month period, total ALLOCATIONS greater than 40% of the annual capacity that is allocated to the category.
5. Final plats that are subject to this policy will contain a statement that **"Parcels within the plat are subject to the provisions of the Sewer ALLOCATION policy of the City of Jacksonville and that sewer capacity for any particular parcel may or may not be available."**

REPORT TO CITY COUNCIL

A report will be submitted by the staff of the Engineering and Planning Divisions to accompany each ALLOCATION request when made in connection with General Plan, Site Plan, Final Plat approvals or other action by Council that impacts the ALLOCATION under the SOC. The report will include a brief description of the project and factors relating to whether the ALLOCATION request is consistent with the probable use such as:

- The estimated flow to be discharged by the proposed project
- The history of use of capacity by the project developer. Staff will not recommend approval of ALLOCATION requests by PERSONS who have received previous ALLOCATIONS unless there have either been transfers of ownership or improvements constructed sufficient to use 75% of the previous project's ALLOCATION.
- The flow committed to date by category (residential, apartments, commercial, and uncommitted) and the remaining capacity available for each.
- The degree to which infrastructure has been completed within the project
- Information and comments on the degree to which the project has been phased
- Other potential projects about which the staff may have knowledge that may effect the allocation

ALLOCATION REVIEW

At any point in time the amount of flow allocated under the ALLOCATION plan may be reviewed and modified by the City Council. The review shall include:

1. The amount of flow available for ALLOCATION will be corrected by adding the amount of flow ALLOCATION that was previously granted, but for which the general plan, site plan or building permit or 12-month allocation period has been allowed to expire.
2. The amount of flow allocated to the categories of residential, apartments, commercial, and uncommitted to determine if the percentage of ALLOCATION between the categories continues to be appropriate
3. The amount of available additional capacity available for re-allocation to new development projects from completion of I/I abatement projects or other actions under the SOC which increase ALLOCATION authority of the Council under the SOC.
4. Any other factors considered relevant by Council for consideration.

Upon periodic review, adjustments as deemed appropriate by Council, will govern ALLOCATION during the time remaining on the life of the SOC.

CONFLICTS

As to any conflicts between this policy and other policies and/or ordinances of the City of Jacksonville, this policy shall preempt all others during the time the SOC is in effect.