

# **Logan Township MUA Policy on the Allocation of Gallonage**

## **Introduction and Purpose**

**Introduction:** The Logan Township MUA (AUTHORITY) is the duly authorized Municipal agency responsible for the provision of sanitary sewer services to Logan Township ("Township"), and the AUTHORITY is bound by service agreements to treat wastewater from neighboring Woolwich Township.

The AUTHORITY recognizes that there is a substantial need to allocate capacity in AUTHORITY facilities in order to provide the communities with orderly and safe growth and to ensure the public health, safety and welfare. Furthermore, the AUTHORITY recognizes that the coordinated phase-in of new and expanded sewer services requests will promote the efficient allocation of sewer service and ensure that development is ultimately supported by adequate off-tract infrastructure prior to allocation of limited sewer capacity resources. Therefore, the AUTHORITY continues to pursue governing the allocation of treatment capacity within the Water Reclamation Facility. The AUTHORITY hereby promulgates Rules and Regulations for the implementation and application of the Allocation Policy to all development projects and others within Logan Township's Wastewater Management Area.

**Purpose:** It is the purpose of the AUTHORITY in promulgating these Rules and Regulations to:

Accomplish the allocation of capacity within its Water Reclamation Facility with full recognition given to the sanitary sewer requirements as found in Planning and Zoning Ordinances of Logan Township and based upon the "build out" requirements of the AUTHORITY Wastewater Management Plan;

Administratively respond and adapt its capacity allocation within its Water Reclamation Facility to the evolutionary land use objectives of AUTHORITY.

Recognize that whenever any Applicant's requirements for sewer service exceed the ability of the AUTHORITY to deliver service due to sewer deficiencies of any kind, it shall be the responsibility of the Applicant to pay its proportionate share of costs related to the upgrade and expansion of facilities, including planning, engineering design, permitting and construction of all facilities necessary to meet its requirements;

Accept responsibility for the growth and management of its sewer facilities in all aspects;

Promote health, safety and welfare of the public as well as ensuring the construction as necessary infrastructure by coordinating the allocation of capacity within AUTHORITY facilities with off-tract road projects and programs of Logan and Woolwich Townships and the County of Gloucester.

## **General Guidelines and Requirements for Allocation of Capacity for all Users**

### **Capacity Allocation Agreements**

Applicants purchasing capacity from the AUTHORITY shall enter into Capacity Allocation Agreements with the AUTHORITY. These Agreements shall specify, among other things, the following:

- 1) Name of Applicant and Applicant's project (where applicable);
- 2) Approval dates for project from governmental and other bodies having jurisdiction;
- 3) The financial obligations of the applicant; and
- 4) The time(s) and method of payment and guarantees of performance.
- 5) Required common use of off-tract improvements to be constructed by the Applicant.

Applicants are required to pay for all services rendered in connection with a Capacity Allocation Agreement. Generally, expenditures will consist of, but shall not be limited to the following:

- 6) Expenditures associated with plan review and approval;
- 7) Expenditures associated with construction inspection and Engineer certification of Applicant-built facilities; and
- 8) Expenditures associated with the provision of "as built" plans (see Rules & Regs) and drawings to the AUTHORITY.

**Transfer of Capacity Allocation:** Unless and only to the extent expressly permitted in capacity allocation agreement or other writings dated prior to July 1 2002 capacity allocation with the facilities of the AUTHORITY cannot be traded, sold, or otherwise re-allocated by an applicant, unless the property identified by the Capacity Allocation Agreement is sold to a new owner, such that the allocation shall run with the land. ***Capacity purchased from the AUTHORITY will revert to the AUTHORITY after a period of two years if no sewer or building construction has taken place. There will be no refund of connection or capacity fees.***

**Ownership of Facilities:** The AUTHORITY will own, operate and maintain all facilities related to sewer systems, excluding certain common use facilities serving multi-family units and commercial/industrial construction as determined by the AUTHORITY.

## **Allocation and Utilization of Gallonage**

**Categories of Gallonage:** Applicants for allocation of capacity within the AUTHORITY Water Reclamation Facilities shall be assigned to one of the following categories of gallonage based upon a qualitative analysis by the AUTHORITY of the requirements of the Applicant for service.

**Health Hazard Gallonage:** Gallonage from this category shall be allocated without limitation to relieve health hazards related to sanitary waste disposal within the Township of Logan in accordance with State statute and the Township Health Department. (See Appendix "A")

**Public Building Gallonage:** Gallonage from this category shall be allocated without limitation to public buildings which are to be used for the health, safety and welfare of the public. . (See Appendix "A")

**Residential Infill Lot Development:** Gallonage from this category shall be allocated without limitation to existing lots within the Logan Township residential zones which either (a) are not part of a major subdivision of land for development purposes, or (b) are part of a minor subdivision as defined under Township Ordinance, one time only, and are within 200 feet of an existing sewer. (See Appendix "A")

**Non-Residential Infill Gallonage:** Gallonage represented by this category shall be allocated to existing and new customers for development or re-development of non-residentially zoned properties. Allocations of capacity from this category of gallonage shall be granted based upon the assumption that (i) the AUTHORITY shall not be subject to a wastewater treatment capacity connection moratorium as defined by the NJDEPE and/or other applicable law or regulation, and (ii) applicants for allocation of capacity under this category of gallonage shall comply with the Treatment Works Approval regulations of the NJDEPE, if applicable. Non-Residential Infill lot allocations shall be limited to:

- 9) A maximum aggregate capacity allocation of 8,000 gallons per day ("GPD") in addition to the existing flow, if any;
- 10) Non-residential infill lots that were created by a minor subdivision (as defined under Township Ordinance) one time only or a single existing non-residential lot; and
- 11) Properties that lie within 299 feet of an existing sanitary sewer line and require a Connection to the sanitary sewer system.

**Committed Flow Gallonage:** Gallonage represented by this category shall consist of gallonage which has been allocated to Applicants pursuant to:

- 12) The issuance by NJDEPE of a valid sewer extension permit which has not expired, or
- 13) An agreement of other writing executed by an Applicant and the AUTHORITY prior to, or
- 14) The terms of these Rules and Regulations and an executed capacity allocation agreement between AUTHORITY and such Applicants, less that amount of gallonage represented by actual connections to the collection system from the development of such Applicants.

**New Growth Gallonage:** Gallonage represented by this category shall be allocated to Applicants for new development projects in Logan Township which have been duly approved by all governmental bodies having jurisdiction. New development projects are defined as new residential or non-residential construction on vacant land and/or the expansion, upgrade, development or redevelopment of existing non-residential properties. Allocation of capacity from this category of gallonage shall be granted based upon the assumption that (i) the AUTHORITY shall not be subject to a wastewater treatment capacity connection moratorium as defined the NJDEPE and/or any other applicable law or regulation and (ii) Applicants for allocations of capacity under category of gallonage shall comply with the Treatment Works Approval regulations of the NJDEPE, if applicable. Projects requiring Planning Board and/or Zoning Board approvals shall be included in this category. . (See Appendix "A")

### **Level of Importance of categories and Prioritizing of Applicants**

**Level of Importance of Categories:** The AUTHORITY reserves the right to distinguish each category of gallonage by level of importance, rather than as a level of priority. [As discussed in paragraph 2 below, the importance of priority pertains only to the date of preliminary approval from the Logan Township Planning Board or Zoning Board] The determination of level of importance pertains to the need to protect the health, safety and welfare of the public as a whole. Accordingly, the Authority has emphasized the importance of maintaining a category of gallonage for failing septic systems (Health Hazard Gallonage Category). It is the AUTHORITY's position that this quantity of gallonage will provide protection from septic system deficiencies that exist within the developed areas of the Township.

**Level of Priority of Applicants with Designated Categories:** The AUTHORITY shall establish and maintain for each Applicant, in descending order, a priority position within the category of gallonage in which the applicant has been place based upon the effective date of preliminary approval for that project from the Logan Township Planning Board or upon receipt of the appropriate equivalent approvals from Zoning Board. It is the expressed intention of the AUTHORITY that Applicants are responsible for securing all needed approvals for their projects. Failure on the part of the Applicant to secure a needed governmental approval for its project may result in placement of the Applicant in a lower priority position, if failure to secure the approval results in the Applicant's inability to proceed with the project within designated time frames as indicated in the AUTHORITY Rules and Regulations, Specifications, Rate and Fee Schedules for Furnishing Sewer Service ("Rules and Regulations") or these Regulations pertaining to allocation of gallonage.

**Reserved Amounts of Gallonage within Categories:** The AUTHORITY reserves the right to reserve uncommitted amounts of gallonage within each specific category of gallonage for any purpose that it deems appropriate related to that category. Furthermore, based upon changing circumstances, utilization of available capacity by Applicants, and the passage of time, AUTHORITY may re-allocate amounts of gallonage among categories. Unused capacity in any category will revert to the AUTHORITY.

**Capacity Allocation and Adequacy of Conveyance Systems:** Allocation of capacity within AUTHORITY treatment facilities will be granted upon the premise that existing conveyance systems are adequate to provide the needed service to and from the Applicant's site. If existing conveyance facilities are found to be inadequate to fulfill the Applicant's requirements for service, projects will not be permitted to utilize allocated capacities within treatment facilities until necessary off-tract improvements are constructed by the Applicant. Even if existing conveyance systems are presently adequate to fulfill the Applicant's service requirements, the Applicant may still be subject to requirements to contribute to the future improvement of expansion of conveyance systems based upon the Applicant's impact thereon

## **Revocation and Recapture of Allocated Gallonage**

**Approval of Facilities Extensions:** Applicants for sewer service requiring construction permits for on-tract and off-tract extensions of existing sewer facilities shall not receive an allocation of gallonage in AUTHORITY facilities without first having received AUTHORITY approval and/or endorsement for the extension of those facilities through the NJDEPE's construction permits process and thereafter have been issued an NJDEPE construction permit for those extension. Subject to conditions further discussed in this section. Applicants holding valid construction permits in accordance with NJDEP regulations shall not have their allocations of gallonage revoked by the AUTHORITY.

**Allocation Subject to Revocation:** Allocation of capacity in AUTHORITY facilities is subject to revocation under the following conditions:

15) If the responsible party fails to initiate construction of permitted on-tract and off-tract facilities prior to the expiration of any NJDEPE construction permit. Expired permits are subject to renewal/reapproval by the AUTHORITY prior to renewal/approval of the permit by NJDEPE.

16) After commencement of construction of permitted on-tract and off-tract facilities but prior to completion/final certification of said facilities, the allocation of capacity in AUTHORITY facilities is not subject to revocation of the responsible party maintains a valid construction permit in accordance with NJDEPE regulations. The responsible party is expected to make reasonable continuous progress toward completion of construction of off-tract and on-tract facilities.

17) After completion/final certification of NJDEPE permitted on-tract and off-tract facilities by the AUTHORITY or its designated agent, a one year time period (two years for non-residential applicants) elapses without the applicant having been issued sewer connection permits annually for no less than 20% of approved residential structures (50% of approved structures for non-residential applicants) associated with the Applicant's project.

18) If a one year time period elapses from the issuance of a sewer permit without issuance of any additional such permits for no less than 20% of approved residential structures (50% of approved structures for non-residential applicants).

19) If the responsible party declares bankruptcy and is unable to fulfill his financial commitments agreed to in the capacity allocation agreement.

20) Notwithstanding anything described herein to the contrary, revocation of an allocation of sewer capacity in excess of 30,000 GPD for residential developments or 45,000 GPD for non-residential developments shall be governed by the terms and conditions of the respective agreements granting such allocation and reservations.

## **Maximum Gallonage Allocation**

**Maximum Gallonage Allocation For Residential and Non-Residential Developments:** The maximum amount of gallonage allocation will be set at 30,000 GPD per application for sewer capacity for residential developments and 45,000 GPD for non-residential developments.

**Additional Gallonage Allocation:** Those applicants who do not secure sufficient gallonage allocations to satisfy their requirements will be permitted to seek additional allocations of gallonage, contingent upon the availability of such, on a first come, first serve basis subject to the following conditions precedent. The maximum gallonage that can be sought is that amount required to complete the project when computed in accordance with these Rules and Regulations.

50% of the original allocation (i.e., 15,000 GPD in the case of residential development or 15,000 GPD in the case of non-residential development) must be utilized by the project as evidenced by issuance of Certificates of Occupancy for residential and/or non-residential units.

100% of the remaining gallonage allocation must be properly permitted for construction through the Construction Code Official of Logan Township.

Applicants who have met the conditions for securing additional capacity allocation, and based upon the date of application for additional wastewater capacity, will be given consideration on a first come, first serve basis.

**Granting Of Increase To Maximum Gallonage Allocation:** Anything to the contrary notwithstanding, the AUTHORITY shall have the right to increase the level of maximum gallonage allocated in the event that an Applicant commits to the payment of a substantial portion of the satellite treatment plant project in a form and manner acceptable to the AUTHORITY. The form acceptable to the AUTHORITY shall provide satisfactory financial commitment by the Applicant to the project, which shall be enforceable by the AUTHORITY. The AUTHORITY in such case shall allow the Applicant to utilize that portion of the increased gallonage (exceeding 30,000 GPD for residential and 45,000 GPD for non-residential) at the time that substantial payment by the Applicant has been made toward the construction of the satellite treatment plant by the AUTHORITY.

## **Connection Permits, Fee Schedules and Renewal of Connection Permits**

**Issuance of Connection Permits:** Upon availability of sewer service, those Applicants desiring service may make application to the AUTHORITY for permission to connect to sewer facilities in accordance with the requirements and procedure established in the Rules and Regulations.

**Connection Permits shall be issued to Applicants for service upon payment of all fees, including but not limited to Connection Fees, Impact Fees, and Developers Contributions.**

**RENEWAL OF LAPSED CONNECTION PERMITS:** Any Lapsed Connection Permit may be renewed by the Applicant for additional one year periods without limitation, provided that continuing progress is being made on the project, the Applicant's CP#1 permit remains valid and all applicable fees as set forth in AUTHORITY Rules & Regulations are paid. In the event the permit lapses and the Applicant do not wish to renew the permit, the AUTHORITY will refund, without interest, the initial connection fee to the Applicant upon satisfaction of the following:

- 21) The Applicant submits the request for refund in writing, and
- 22) Construction of the unit has not commenced;
- 23) The forfeited allocation is re-allocated by the AUTHORITY or to another Applicant.

## **Fee Schedules**

**Issuance of Connection Permits:** Connection Permits shall be issued to Applicants upon the payment of connection fees as specified within these Rules and Regulations.

**Renewal of Lapsed Connection Permits:** There will be a fee imposed for each renewal of lapsed permits which is determined by calculating the difference between the connection fee previously paid by the Applicant at the issuance of the original connection permit (or at a prior renewal) and the connection fee in effect at the time the renewal of the connection permit is sought by the connection permit holder. There will be no refund of any renewal fees.

## **Severability and Waiver**

**Severability:** If a court of competent jurisdiction invalidates any provision, section, subsection, paragraph, clause, or word of AUTHORITY Rules & Regs, such order of judgment shall not affect or invalidate the remainder of any provision, section, subsection, paragraph or clause of these Rules and Regulations, and to this end the provisions of this Chapter are declared to be severable.

**Exception or Waiver:** The AUTHORITY shall have the power to grant such exceptions and waivers from the requirements of its Rules & Regs as may be reasonable and within the general purpose and intent of the provisions of this Chapter if the literal enforcement of one or more provision of AUTHORITY Rules & Regs is impracticable or will exact undue hardship because of peculiar conditions pertaining to the application in questions. The AUTHORITY may grant such relief as may be reasonable and in the best interests of the public and in accordance with the general purposes and intent of these requirements. In making its findings. The AUTHORITY shall take into account the nature of the proposed use, the existing use, the existing use of the land in the vicinity, the number of persons who will reside or work in the facilities being proposed, and the probable effect of the proposed application on sanitary sewer facilities in the vicinity. The granting of relief under this section shall not be detrimental to the public welfare, injurious to the surrounding property not detrimental to the development of sanitary sewer facilities within the service area of the AUTHORITY.

## **APPENDIX “A”**

**Health Hazard Gallonage: 15,000 gallons or 50 units.**

**Public Building Gallonage: 1,500 gallons or 5 connection units**

**Residential Infill Lot Development: 6,000 gallons or 20 units**

**Non-Residential (Commercial) Infill Gallonage: 7,500 gallons or 25 connections**

**Committed Flow Gallonage: 1,965,200 gallons**

**New Growth Gallonage: 4,800 gallons or 16 units**