

**TUCKASEIGEE WATER & SEWER AUTHORITY (TWSA)  
CASHIERS SEWER ALLOCATION TRANSFER POLICY**

1. **PURPOSE-** This policy is established to address the existing Scarcity, as defined in this policy, of available sewer capacity in the Cashiers Community Sewer Service Area. This policy is intended to provide options under which the current holders of Unrealized Allocation, as defined in this policy, might be encouraged to utilize that sewer capacity to the benefit of the Cashiers Community. This policy is also intended to assist TWSA in its overall management of water resources by optimizing the use of the assets in its inventory.
2. **APPLICABILITY-** This policy is written to be applicable to the Cashiers Community Service Area only.
3. **DEFINITIONS-** The following words and terms are used within this policy and / or within the procedures and forms established to implement this policy. The intended meaning for each word and term is provided here for such use. Such words and terms are shown with first letter capitalization for the purpose of triggering reference to the intended definition, and for ease in use and consistency in application.
  - a. **Allocation-** a block of Wastewater Collection System, and wastewater treatment capacity assigned to a specific Property for a specific Development purpose consistent with a plan submitted to TWSA and expressed in Gallons per Day (GPD).
  - b. **Application-** that form currently in use and provided by TWSA for the purpose of applying for a Sewer Allocation Transfer along with those documents necessary to detail the ownership status and the proposed developments of the Properties involved. A separate Application is required for each Relinquishing Property and for each Receiving Property.
  - c. **Application Fee-** a non-refundable payment of \$175.00 to be received by TWSA with the Application package to offset the administrative cost of processing the Application. For a Non-Profit Entity, the Application Fee may be waived after written request and subject to approval by the TWSA Board.
  - d. **Availability-** sewer service is deemed available for a given to a Property if a TWSA owned Collection System asset is contiguous to the Property and there is capacity available to serve the proposed development of the Property.

- e. **Bank-** an administrative holding pattern where an existing block of Sewer Allocation is "released" by a Property Owner and made available for purchase by another party. The Bank is to be used in cases where Properties are not of "Common Ownership", as that term is defined in this policy. Allocation placed into this status shall be made available for purchase by any party who qualifies under this policy and who demonstrates a valid need for service and at a price not to exceed the current TWSA Impact Fees schedule. Once Allocation is placed into the Bank, TWSA reserves the right to purchase the Allocation and to place it back into the Allocation reserve TWSA then holds. Purchase of an Allocation from the Bank by TWSA shall require TWSA Board approval.
- f. **Capacity Assurance-** that monthly charge that is assessed a customer holding Unrealized Allocation for a project which is not completed in the construction timeframes as established in Section 6.A of the TWSA Water & Sewer Allocation Policy.
- g. **Cashiers Community Service Area-** that section of the TWSA Service Area with an existing Collection System receiving wastewater flows and conveying them to the existing Cashiers Waste Water Treatment Plant.
- h. **Collection System-** those sewer infrastructure assets that are owned (or leased), operated and maintained by TWSA which receive and convey wastewater flows from Private Connections.
- i. **Common Ownership-** The situation in which the ownership of both the Relinquishing Property and the Receiving Property have a direct correlation of at least 51%. Such Common Ownership shall be interpreted based on a review of the legal entities (i.e. partnerships, corporations, LLC's, etc.) and individuals involved.
- i. The 51% correlation between the individuals tied to ownership is measured independent of the nature of such ownership interest.
  - ii. If any Property Owner is a legal Entity as opposed to an individual, the Entity's legal existence must predate the adoption of this policy by TWSA.
  - iii. If any Property Owner is an individual as opposed to a legal Entity, the ownership interests therein must likewise predate the adoption of this policy by TWSA.
  - iv. Any Transfer involving a Common Ownership Entity must be processed in accordance with the owning Entity's bylaws or other governing document and the corresponding actions by the owning

Entity approving the Application and the transfer sought must be documented in writing as part of the Application process.

- j. **Development-** those improvements proposed on a property which generates a request for Sewer Allocation. Development phasing shall be identified by the Property Owner and shall be part of the Transfer review process.
- k. **Documentation-** those items which are necessary to verify the status of the ownership of a Property and to describe the details of the proposed Development purpose for which a Sewer Allocation transfer is requested. At the discretion of TWSA staff such items may be received in hard copy or electronically, however all documents which contain signature blocks, Entity seals and / or notary statements must be supplied as original documents.
- l. **Entity-** a non-person organization that legally holds an ownership interest in a Property. This may include any organization which by definition is allowed to exist and does exist under North Carolina Law such as corporations, limited liability companies, homeowner associations, municipalities, etc.
- m. **Impact Fee-** those fees collected by TWSA upon purchase of a block of Sewer Allocation, as determined under the then current TWSA process and as set in the then current TWSA Budget. These fees are based on the impact of a proposed Development on the TWSA infrastructure. These fees are intended to collect revenue to replace the capital investment in the wastewater Collection System and the wastewater treatment plant that are needed to service a proposed Development.
- n. **Listing Period-** that time designated by the releasing Property Owner for which the released Sewer Allocation shall remain in the Bank and shall be available for initial transfer to a Receiving Property Owner. If no transfer takes place in the Listing Period, the releasing Property Owner may elect to withdraw the entire Sewer Allocation from the Bank. However, once an initial transfer does take place all remaining un-transferred Sewer Allocation shall remain in the Bank until it is purchased and transferred to a Receiving Property Owner or TWSA.
- o. **Non-Profit-** an Entity which holds current verifiable classification as a Non-Profit Entity by the US Internal Revenue Service.
- p. **Point of Service Delivery-** that location where a Private Connection and the Collection System are joined.

- q. **Private Connection-** those sewer infrastructure assets owned, operated and maintained by parties other than TWSA which convey wastewater flows to the Collection System.
- r. **Property-** that specific piece of real estate identified in the Jackson County Geographic Information System (GIS) with a unique Property Identification Number (PIN), upon which a proposed Development is to occur and to which a Sewer Allocation is assigned upon completion of the prescribed TWSA procedures and consistent with TWSA policies.
- s. **Property Owner-** That party who holds title to the Property to which a Sewer Allocation currently is or will be assigned. A Property Owner may be an individual or an Entity as provided by state law and as otherwise defined in this policy.
- t. **Receiving Property-** that part of the Transfer process whereby a Property (or properties) is credited either in part or in total with a Sewer Allocation that was previously assigned to another Property. Once a transfer is processed the Receiving Property shall be subject to and treated in all ways according to the current policies and procedures of TWSA as may be applicable.
- u. **Relinquishing Property-** that part of the Transfer process whereby a Property with a previously assigned Sewer Allocation releases the Sewer Allocation in part or total to another Property or properties. Once a transfer is completely processed the Relinquishing Property shall be subject to and treated in all ways according to the current policies and procedures of TWSA as may be applicable.
- v. **Sewer Allocation-** the specific quantity of wastewater flow allocated to accommodate the construction of a specific Development on a specific Property.
- w. **Scarcity-** when the sum total of the annual average wastewater treatment plant flows plus the Unrealized Allocations are equal to or exceed 80% of the Permitted Plant Capacity.
- x. **Transfer-** Relinquishment of in part or in total an existing Sewer Allocation to another Property or Party consistent with TWSA procedure and policies.
- y. **Transfer Process-** The process whereby an existing Sewer Allocation is relinquished in part or in total from a Property and subsequently received in part or total by a different Property or properties.
- z. **Transfer Fee-** the compensation to TWSA as part of the Transfer Process. This compensation may be accomplished by making a payment equal to

10% of the current Impact Fees applicable to the amount of Sewer Allocation that is to be transferred. This payment may be made by either the Receiving or Relinquishing Property Owner.

- zz. **Unrealized Sewer Allocation**- those Sewer Allocations for which TWSA and the Property Owner have contractual obligations but have not yet been connected to the TWSA Collection System.

#### 4. Transfers Between Properties of Common Ownership

- a. The properties involved in any proposed transfer must be held in Common Ownership as defined by this policy and documented as requested in the Application process. All proposed transactions within any transfer must be fully vetted with the owning individual and / or legal Entity and the written approval of the transaction by all Owners must be received as part of the completed Application package. For legally recognized Entity that is comprised of more than one person, such approval must be obtained in accordance with the governing documents and/or bylaws of that Entity and documented as appropriate for the action taken. Copies of the governing documents, bylaws and sealed / notarized copies of the approval action by the Entity for the Application and the transfer must be provided in the Application package.
- b. The Property which currently holds unrealized Sewer Allocation that the current Property Owner wishes to relinquish and transfer may be vacant or partially developed. If vacant, or if the Development in place is already tied onto the TWSA Collection System and no further Development will take place, the Owner may elect to transfer all of the remaining Unrealized Allocation. If partially developed and some or all of the Development isn't yet tied onto the TWSA Collection System, the Owner must retain adequate Unrealized Allocation to accommodate the current and future flows for the Development that will take place at the Relinquishing Property, with the balance available for transfer. The Application package that is submitted requesting the transfer shall include the requisite Application Fee and detailed information regarding the current conditions and future Development plans for the Relinquishing Property.
- c. The Property which is to receive the transfer of Unrealized Allocation may be vacant or partially developed. The proposed Allocation shall supply adequate capacity to serve the existing and proposed Development of the Property, subject to Availability. The Application package that is submitted requesting the transfer shall include the requisite Application Fee and detailed information regarding the current conditions and future Development plans for the Receiving Property.

- d. Upon completion of the Transfer Process and approval of the transfer, all agreements and contracts between TWSA and the Relinquishing Property Owner that were the basis of the original Allocation are severed with regard to the original project scope and applicable allocation. However, the original Capacity Assurance Fees for the Relinquishing Property shall be honored on a cost per gallon basis and applied in a prorated manner to the retained allocation after the transfer, subject to and consistent with the special conditions applicable to the concept, scope and phasing of the Development Plan tied to the retained allocation as further addressed in this Policy. The Receiving Property shall be treated in all ways according to the current policies and procedures for TWSA then in effect and as applicable as of the date of the Transfer.
- e. Sewer service must be deemed available by TWSA staff in order to receive approval for any proposed transfer.
- f. Sewer Allocation can be transferred only one time between Properties of Common Ownership.
- g. Upon completion of the Transfer Process and approval of the transfer, and if the Relinquishing Property Owner is currently paying Capacity Assurance Fees to keep the Unrealized Allocation the Property Owner still holds:
  - i. For the Receiving Property, such Fees shall cease upon the completion of transfer of the portion of the Allocation that is transferred and the Receiving Property Owner shall have the applicable timeframe to complete the Property Owner's Development as shown in table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new Development isn't completed and tied in as per that policy, Capacity Assurance Fees as per section 4.d of this policy shall apply retroactively to the date the transfer was completed as well as going forward.
  - ii. Upon completion of the Transfer Process and approval of the transfer and for the Relinquishing Property, if the original Development plans remain unchanged in concept but reduced in scope, any Unrealized Allocation retained by the Relinquishing Property Owner shall continue to be subject to Capacity Assurance Fees as per section 4.d of this policy.

However, should the Relinquishing Property Owner commence the Relinquishing Property Owner's Development Plan as unchanged in concept but reduced in

scope for the Allocation retained by the Relinquishing Property by the date of completion of the Transfer Process and approval for the Relinquished Allocation, then and in that event such Fees shall be suspended and the Relinquishing Property Owner shall have the applicable timeframe to complete their new Development plans as shown in Table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new Development isn't completed and tied in as per that policy, then the relinquishing Property Owner shall be subject to Capacity Assurance Fees as per section 4.d of this policy, which shall apply retroactively to the date the transfer was completed as well as going forward.

- iii. Upon completion of the Transfer Process and approval of the transfer and for the Relinquishing Property, if the original Development plans have changed in concept, any Unrealized Allocation retained by the Relinquishing Property Owner shall continue to be subject to Capacity Assurance Fees as per section 4.d of this policy.

However, should the Relinquishing Property Owner commence the Relinquishing Property Owner's Development Plan as changed in concept for the Allocation retained by the Relinquishing Property by the date of completion of the Transfer Process and approval for the Relinquished Allocation, then and in that event such Fees shall be suspended and the Relinquishing Property Owner shall have the applicable timeframe to complete their new Development plans as shown in Table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new Development isn't completed and tied in as per that policy, then the Capacity Assurance Fees as per section 4.d of this policy shall apply retroactively to the date the transfer was completed as well as going forward.

- h. The Property Owner certifies that all proposed improvements to be completed as part of the Development within both the Relinquishing Property and the Receiving Property will be fully compliant with all applicable federal, state and local laws, ordinances and administrative rules and as a part of the Transfer Process and approval of the transfer.

## **5. Transfers Between Properties Not of Common Ownership**

- a. For those Properties which do not meet the criteria for a transfer between "Properties of Common Ownership" an alternative process

shall be followed. In such cases the transfer of Allocation currently held must be handled as a sale of Allocation and transferred through the Bank process. In this process the Owner of an existing Allocation makes Application to TWSA to release Allocation from one Property, to place it in the TWSA Allocation Bank and to then sell it to another Property Owner. In all cases the sale price excluding any fees paid to TWSA shall be equal to or less than the current TWSA charges for Sewer Allocation as adopted in the TWSA Annual Budget. Fees to TWSA may be paid by either the Allocation seller or buyer in these transactions.

- b. The Property which currently holds Unrealized Sewer Allocation that the current Property Owner wishes to relinquish and transfer may be vacant or partially developed. If vacant, or if the Development in place is already tied onto the TWSA Collection System and no further Development will take place, the Owner may elect to transfer all of the remaining Unrealized Allocation. If partially developed and some or all of the Development isn't yet tied onto the TWSA Collection System, the Owner must retain adequate Unrealized Allocation to accommodate the current and future flows for the Development that will take place at the Relinquishing Property, with the balance available for transfer. The Application package that is submitted requesting the transfer shall include information regarding the current conditions and future Development plans for the Relinquishing Property. Completion of an Application is no guarantee that a Sewer Allocation transfer transaction will take place.
- c. The Property which is to receive the transfer of Unrealized Allocation may be vacant or partially developed. The proposed Allocation transfer shall supply adequate capacity to serve the existing and proposed Development of the Property, subject to Availability. The Application package that is submitted by the current Property Owner requesting the transfer shall include the requisite Application Fee and detailed information regarding the current conditions and future Development plans for the Receiving Property.
- d. Upon completion of the Transfer Process and approval of the transfer, all agreements and contracts between TWSA and the Relinquishing Property Owner that were the basis of the original Allocation are severed with regard to the original project scope and applicable allocation. However, the original Capacity Assurance Fees for the Relinquishing Property shall be honored on a cost per gallon basis and applied in a prorated manner to the retained allocation after the transfer, subject to and consistent with the special conditions applicable to the concept, scope and phasing of the Development Plan tied to the retained allocation as further addressed in this Policy. The Receiving Property shall be treated in all ways according to the current policies and



procedures for TWSA then in effect and as applicable as of the date of the Transfer.

- e. Sewer service must be deemed available by TWSA staff in order to receive approval for any proposed Bank transfer.
- f. If the Relinquishing Property Owner is currently paying Capacity Assurance Fees to keep the Unrealized Allocation held by the Relinquishing Property Owner, then the Capacity Assurance Fees shall continue in their current form while the released Allocation is in the Bank and available for transfer and;

- i. For the Receiving Property, such Fees shall cease upon the completion of transfer of the portion of the Allocation that is transferred and the Receiving Property Owner shall have the applicable timeframe to complete the Property Owner's Development as shown in table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new Development isn't completed and tied in as per that policy, the Capacity Assurance Fees as per section 5.d of this policy shall apply retroactively to the date the transfer was completed as well as going forward.

- ii. Upon completion of the Transfer Process and approval of the transfer and for the Relinquishing Property, if the original Development plans remain unchanged in concept but reduced in scope, any Unrealized Allocation retained by the Relinquishing Property Owner shall continue to be subject to Capacity Assurance Fees as per section 5.d of this policy.

However, should the Relinquishing Property Owner commence the Relinquishing Property Owner's Development Plan as unchanged in concept but reduced in scope for the Allocation retained by the Relinquishing Property by the date of completion of the Transfer Process and approval for the Relinquished Allocation, then and in that event such Fees shall be suspended and the Relinquishing Property Owner shall have the applicable timeframe to complete their new Development plans as shown in Table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new

Development isn't completed and tied in as per that policy, then the Capacity Assurance Fees as per section 5.d of this policy shall apply retroactively to the date the transfer was completed as well as going forward.

iii. Upon completion of the Transfer Process and approval of the transfer and for the Relinquishing Property, if the original Development plans have changed in concept, any Unrealized Allocation retained by the Relinquishing Property Owner shall continue to be subject to Capacity Assurance Fees as per section 5.d of this policy.

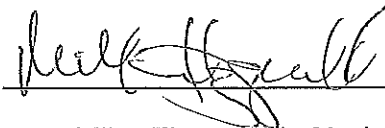
However, should the Relinquishing Property Owner commence the Relinquishing Property Owner's Development Plan as changed in concept for the Allocation retained by the Relinquishing Property by the date of completion of the Transfer Process and approval for the Relinquished Allocation, then and in that event such Fees shall be suspended and the Relinquishing Property Owner shall have the applicable timeframe to complete their new Development plans as shown in Table 6.1 of the TWSA Water and Sewer Allocation Policy. If the new Development isn't completed and tied in as per that policy, then the Capacity Assurance Fees as per section 5.d of this policy shall apply retroactively to the date the transfer was completed as well as going forward.

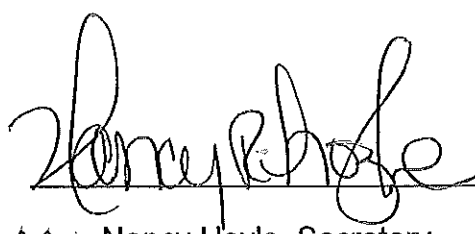
- g. The Relinquishing Property Owner and the Receiving Property Owner shall each certify that all proposed improvements to be completed as part of the Development within both the Relinquishing Property and the Receiving Property will be fully compliant with all applicable federal, state and local laws, ordinances and administrative rules as part of the Transfer Process and approval.
- h. In the case of a transfer which is proposed to be made to a verified "Non-Profit" Entity, with the transfer being made as a gift with no direct monetary cost to the Receiving Property Owner, the TWSA Board may by public vote elect to waive some or all of the Transfer Fees, subject to any special conditions relative to the transaction.
- i. Properties relinquishing Allocation may be placed into the "Bank" process only one time and once the Allocation is in the Bank it shall remain there unless no transaction takes place within the Listing Period. A Relinquishing Property may have multiple Receiving properties, with each transaction closing over an extended period of time. The Relinquishing Property Owner shall still be responsible for all Capacity

Assurance charges due on the remaining un-transferred Allocation held in the Bank.

- j. Application Fees are due and payable by both the Relinquishing Property Owner and the Receiving Property Owners in a Bank transfer.
  - k. Properties may be withdrawn from the Bank if no transfer is successfully negotiated upon expiration of the Listing Period, with written notice to TWSA that the applicable transfer Application is being terminated. No rebate of fees by TWSA shall be provided if this occurs.
6. **Processing-** A meeting is required between the Property Owner or the Property Owner's designated agent, and TWSA staff to review and discuss the Application package. Upon request and prior to that meeting TWSA shall provide a checklist of items generally required to produce a complete Application package as part of the review process; however the meeting may identify additional requirements due to the unique nature of each Property and Development. TWSA staff shall provide a response to each transfer request within twenty (20) business days of confirmation by TWSA of receipt of a completed Application package. In those cases where a transfer takes place, the underlying financial activities shall be documented on a Closing Statement Form to be provided by TWSA, which Closing Statement Form shall disclose, among other items, any applicable fees paid to TWSA and related to the transaction.
7. **Development Completion** –It is recognized that some Developments are constructed over time and on occasion there may be a portion of the Development incomplete. The customer is responsible for providing Documentation when each portion of the Development is completed and connected. If the completion is partial, the customer will be billed for sewer flows for the connected portion, and if applicable as per Table 6.1 of the current TWSA Water and Sewer Allocation Policy, for Capacity Assurance Fees for the portion not yet completed. It is noted that upon completion all flows will be billed as connected. Once an approved Development for which an Allocation is assigned is constructed and complete, the associated Sewer Allocation is likewise deemed fully used.
8. **Reporting-** TWSA Staff shall keep the TWSA Board updated on the status of any requested transfers and any approved transfers. TWSA Staff likewise shall account for all transfers in the Unrealized Allocation balance sheet used to manage total plant flows.
9. **Termination-** this policy shall lapse when there no longer is a Scarcity of available sewer capacity as defined by this policy in the Cashiers Community Sewer Service Area.

Adopted by a vote of the TWSA Board on this 21<sup>st</sup> day of July 2015

  
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Mike Fitzgerald, Chairman

  
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Nancy Hoyle, Secretary

