

## **WASTEWATER ALLOCATION PROCEDURES**

Wastewater allocation is not a property interest; it cannot be sold, traded or transferred to a different property. It is permission given to a property to access the public wastewater transportation and treatment system only to the extent necessary for the property and to the extent capacity in the public system is available. Fees paid are compensation for public expenditures to provide, operate and maintain such public wastewater transportation and treatment system, not the purchase of a property interest in such facilities.

The following are procedures that will be used by Lehigh County Authority (LCA) to administer these allocation authorizations, which vary depending on whether the LCA collection system is connected to the Western Lehigh Interceptor system for ultimate treatment at the Kline's Island Wastewater Treatment Plant located in the City of Allentown and therefore governed in part by a series of agreements<sup>1</sup> amongst LCA, the Boroughs of Macungie and Alburtis, and the Townships of Lower Macungie, Lowhill, Upper Macungie, Upper Milford, and Weisenberg (Signatories), or a satellite system connected to a different wastewater treatment plant.

### **Part A - Lehigh County Authority Western Lehigh Interceptor-connected Systems**

For LCA-owned wastewater collector systems that ultimately flow to the Western Lehigh Interceptor, presently those located in Lowhill, Upper Milford and a portion of Weisenberg Townships, the following guidelines are in effect for allocation of wastewater treatment capacity:

1. All available allocation is to be placed in a "General Pool", available to all applicants in all Signatory municipalities on a first-come, first-served basis.
2. An application for allocation may not be filed with a Signatory municipality until final subdivision and/or land development plan approval in accordance with that municipality's process has been given and PA DEP has approved the Sewer Planning Module related to the development per PA Act 537. Applications received without a Pennsylvania DEP approved Sewer Planning Module are deemed incomplete and will not be considered.
3. Allocation is lost, with no reimbursement of fees, and the treatment capacity returned to the General Pool, unless the following milestones are met within the deadlines specified below:
  - a) With new construction or new first time allocation for an existing building:
    - i) Within two (2) years from the allocation approval date, a certificate of occupancy must be issued by the applicable municipality for the building(s) for which allocation was received, and
    - ii) Within three (3) years from the allocation approval date, all allocation must be used to avoid the loss of that portion of the allocation that is unused.
  - b) For additional use by an existing user (a holder of previously approved allocation), within three (3) years from the additional allocation approval date, at least 80% of the additional allocation and all previous allocation must be utilized to preclude loss of that portion of unused allocation.

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<sup>1</sup> These agreements include the "Post-1985 Allocation" Agreement (dated August 4, 1987) and Amendments 1 through 4 (dated February 1, 1988, April 17, 1991, August 2, 2000, and January 2, 2007 respectively). Copies are available by contacting Jennifer Montero, Contracts Administrator at [JenniferMontero@lehighcountyauthority.org](mailto:JenniferMontero@lehighcountyauthority.org) or at 610-398-2503.

3. When any allocation has been held for more than three (3) years and sewer usage monitoring shows that either insufficient allocation was purchased or excess allocation is not being used, LCA will make an adjustment as either a charge to the property owner for additional allocation at the then current rates, or as a loss of unused allocation that is returned to the General Pool, with no reimbursement of fees. LCA shall notify a user if LCA has reviewed the user's previous four quarters average and determined that the user's sewer discharge average is above its current purchased allocation. The user shall have a reasonable time, which LCA shall solely determine based on the type of usage producing the sewage, to curtail its usage to come within the parameters of the purchased allocation. If the user is unable to restrict its usage to meet its allocation limits, the user will be required to purchase additional allocation reflecting the difference between its current allocation and the four quarters average.
4. If the applicant can show that the non-compliance with the above deadlines was the result of *force majeure*, the fees, excluding any interest, shall be returned to the applicant in the amounts originally paid for the unused allocation, upon return of the allocation to the General Pool. *Force majeure* is defined in the Post-1985 Allocation Agreement as any act of God, war, civil unrest, natural disaster, natural physical defect, governmental regulation or condemnation by a governmental entity or public utility which precludes development of the property substantially as approved in the final land development or subdivision plans.
5. If the applicant can show *just cause*, the deadline may be waived/extended in accordance with the provisions of §§2.04 & 2.09 of the Post-1985 Allocation Agreement. For processing the waiver/extension, there shall be a fee of \$100 per thousand gallons of treatment allocation, with a minimum fee of \$100. Any allocation deadline extension may require the payment of additional allocation fees to reflect any increase in those fees from the time of purchase to the original deadline date. These fees include those payable to LCA for the applicant's use of LCA sewage treatment and transportation assets **and** any fees pertaining to the use of the municipal collection system assets.
6. All allocation shall remain with the land for which it has been purchased. This condition applies to all past and future allocations. In the event that a property is subdivided as provided under the codes of the municipality, then the existing allocation for the original property may be divided amongst the newly created subdivided property and a specific portion of the allocation attributed to each remaining parcel as determined by the user and approved by LCA. Section A.3 above will then apply after the subdivision approval.
7. For non-residential users, all allocation applications shall include a request for a specific treatment capacity as determined by the applicant and as approved by the LCA Capital Works staff for appropriateness of the applicant's usage estimate, to then be submitted to the appropriate municipality. For residential units, an allocation of 223 gallons per day (gpd) is considered as one EDU (equivalent dwelling unit). If appropriate allocation is available and following approval by the municipality, it will be forwarded by the municipality to LCA. LCA will take action on all applications; applications for 50,000 gpd or greater must be reviewed with the Signatories prior to approval.
8. In the event that the building(s) on the property are removed by demolition, fire, natural catastrophe or condemnation, the owner shall have a period of twenty-four (24) months from the date of removal to restore, build, or rebuild the improvements utilizing the allocation. An extension can be applied for under special circumstances. The owner shall provide notice to

LCA of the demolition or natural catastrophe and obtain a permit from LCA for a demolition disconnection from the public sewer system. At such time the owner may be required to provide either a permanent or temporary capping of the sewer lateral and pay the current inspection fee for LCA inspection of such. LCA shall provide the owner notice of the twenty-four (24) month requirement to re-build or construct improvements following the loss. In the event that the owner fails to restore, build, rebuild or construct improvements to the property before the deadline, the allocation shall be deemed void and returned to the pool.

9. Any non-residential user who shall add sewer usage after the initial connection that is above its purchased allocation shall timely notify LCA and purchase additional allocation at the then current rates.
10. When an application is filed, all fees must accompany it. Currently, for every municipality, two types of fees are charged - the collection system fees and the regional transportation/treatment fees (LCA fees). Typically, LCA fees are revised annually. Effective January 1, 2021, the LCA fees are as follows:

	<u>2022 Rate</u> <u>(per gallon per day)</u>
LCA Fee:	
Treatment Allocation Fee	\$7.39
Western Lehigh Interceptor Fee	5.03
Little Lehigh Relief Interceptor Fee	<u>1.93</u>
Total	\$14.35

Applicants should check with LCA for the applicable collection system fees.

### **Part B - Lehigh County Authority Satellite Wastewater Systems**

LCA owns/operates a number of wastewater collection and treatment systems that are independent of each other and not connected to the regional Western Lehigh Interceptor system. The following guidelines are in effect for allocation of wastewater treatment capacity in those systems:

1. All available allocation is to be placed in a "General Pool" for the specific system, available to all applicants in that specific system on a first-come, first-served basis unless specified otherwise by contract or agreement.
2. An application for allocation may not be filed with LCA until final subdivision and/or land development plan approval in accordance with the applicable municipality's process has been given and documentation of such provided to LCA. and PA DEP has approved the Sewer Planning Module related to the development per PA Act 537.
3. Allocation is lost, with no reimbursement of fees, and the treatment capacity returned to the General Pool for that specific system, unless the following milestones are met within the deadlines specified below:
  - a. With new construction or new first time allocation for an existing building:
    - i. Within two (2) years from the allocation approval date, a certificate of occupancy must be issued by the applicable municipality for the building(s) for which allocation was received, and

- ii. Within three (3) years from the allocation approval date, all allocation must be used to avoid the loss of that portion of the allocation that is unused.
  - b. For additional use by an existing user (a holder of previously approved allocation), within three (3) years from the additional allocation approval date, at least 80% of the additional allocation and all previous allocation must be utilized to preclude loss of that portion of unused allocation.
4. When any allocation has been held for more than three (3) years and sewer usage monitoring shows that either insufficient allocation was purchased or excess allocation is not being used, LCA will make an adjustment as either a charge to the property owner for additional allocation at the then current rates, or as a loss of unused allocation that is returned to the General Pool, with no reimbursement of fees. LCA shall notify a user if LCA has reviewed the user's previous four quarters average and determined that the user's sewer discharge average is above its current purchased allocation. The user shall have a reasonable time, which LCA shall solely determine based on the type of usage producing the sewage, to curtail its usage to come within the parameters of the purchased allocation. If the user is unable to restrict its usage to meet its allocation limits, the user will be required to purchase additional allocation reflecting the difference between its current allocation and the four quarters average.
5. If the applicant can show that the non-compliance with the above deadlines was the result of *force majeure*, the fees, excluding any interest, shall be returned to the applicant in the amounts originally paid for the unused allocation, upon return of the allocation to the General Pool. For purposes of this section, *force majeure* shall be defined as any act of God, war, civil unrest, natural disaster, natural physical defect, governmental regulation or condemnation by a governmental entity or public utility which precludes development of the property substantially as approved in the final land development or subdivision plans.
6. If the applicant can show *just cause* acceptable to LCA, the deadlines may be waived/extended. For processing the waiver/extension, there shall be a fee of \$100 per thousand gallons of treatment allocation, with a minimum fee of \$100. Any allocation deadline extension may require the payment of additional allocation fees to reflect any increase in those fees since the time of purchase.
7. All allocation shall remain with the land for which it has been purchased. This condition applies to all past and future allocations. In the event that a property is subdivided as provided under the codes of the municipality, then the existing allocation for the original property may be divided amongst the newly created subdivided property and a specific portion of the allocation attributed to each remaining parcel as determined by the user and approved by LCA. Section B.3 above will then apply after the subdivision approval.
8. For non-residential users, all allocation applications shall include a request for a specific treatment capacity requirement determined by the applicant and shall be submitted to the Authority for approval, including the appropriateness of the applicant's usage estimate by the LCA Capital Works staff. When an application is filed, all fees must accompany it.
9. In the event that the building(s) on the property are removed by demolition, fire, natural catastrophe or condemnation, the owner shall have a period of twenty-four (24) months from the date of removal to restore, build, or rebuild the improvements utilizing the allocation. An extension can be applied for under special circumstances. The owner shall provide notice to LCA of the demolition or natural catastrophe and obtain a permit from LCA for a demolition disconnection from the public sewer system. At such time the owner may be required to

provide either a permanent or temporary capping of the sewer lateral and pay the current inspection fee for LCA inspection of such. LCA shall provide the owner notice of the twenty-four (24) month requirement to re-build or construct improvements following the loss. In the event that the owner fails to restore, build, rebuild or construct improvements to the property before the deadline, the allocation shall be deemed void and returned to the pool.

- 10. Any non-residential user who shall add sewer usage after the initial connection that is above its purchased allocation shall timely notify LCA and purchase additional allocation at the then current rate.
- 11. For residential units, an allocation shall be one EDU (equivalent dwelling unit), unless it is a multi-family unit. The number of gallons per day (gpd) that shall constitute one EDU varies by system, as reflected in this table.

WASTEWATER COLLECTION SYSTEM	GPD = 1 EDU <sup>2</sup>
Heidelberg Heights System	241.2
Lynn Township	223.0
Sand Spring System	241.2
Washington Township System	250.0
Western Weisenberg System (Arcadia West)	262.5
Wynnewood System	241.2

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<sup>2</sup> Based upon tapping fee calculations per the Municipality Authorities Act