

ORDINANCE

CITY COUNCIL OF THE CITY OF KANNAPOLIS

BE IT ORDAINED by the City Council for the City of Kannapolis, that Chapter 17, “Water and Sewers” is hereby amended to add Article VI as follows:

“ARTICLE VI. WATER AND SEWER EXTENSION POLICY

Sec. 17-225 Purpose. The purpose of the City of Kannapolis Water and Sewer Extension Policy is to define an equitable, orderly, administratively simple, and financially viable means for extending water and sewer system facilities of the City of Kannapolis to meet the growing needs of the City and of property immediately surrounding the City limits.

Sec. 17-226 Words and Phrases. The following words and phrases shall have the meanings ascribed to them as follows:

- “Administering” within the context of water and sewer extensions shall include responsibility for surveying and engineering design; permitting, authorization to construct, and other regulatory compliance; easement acquisition; construction; and all activities required to perform these functions including contracting with other parties.
- “Applicant” shall be the person applying for and desiring to extend the water and/or sewer system owned and operated by the City for the benefit of making utility service available to one or more properties to serve either proposed or existing development.
- “Authority” shall be the Water and Sewer Authority of Cabarrus County, a political subdivision organized under Chapter 162A of the North Carolina General Statutes.
- “Base Facilities” shall be the water and sewer facilities for the benefit of the water or sewer system as a whole, or the benefit of a significant region of the system, such as a defined pressure zone within the water system or a defined watershed drainage basin within a sewer system. Base Facilities provide general availability and accessibility of the water and sewer facilities to properties within the Service Area by making it reasonable for properties to obtain service through Property Extensions. Base Facilities shall be specifically defined by a Master Plan and are installed in accordance with funds and schedule established by an adopted Capital Improvements Plan. Generally, the Base Facilities include the water treatment plant, water storage tanks and reservoirs, water pumping stations, major water distribution mains, major wastewater pump stations and force mains, and major wastewater collection mains.
- “Capital Improvements Plan” shall be the multiyear plan of the City adopted by the Kannapolis City Council for financing and administering improvements to the Water System and Sanitary Sewer System. The Plan shall include the City’s plans to fund Base Facilities extensions of water distribution and/or sanitary sewer collection systems, but may also include improvements to the Water Treatment Plant and may include rehabilitation, renewal, or replacement of existing assets of the water and sewer systems.
- “City” shall be the City of Kannapolis, North Carolina, a municipal corporation organized under the laws of the State of North Carolina.

- “City Council” shall be the City Council of the City of Kannapolis, North Carolina.
- “Developing Property” shall be any new residential, commercial or industrial construction, development, renovation, or subdivision of property within the City of Kannapolis municipal boundaries or designated service area.
- “Developed Property” shall be property with one or more existing buildings or other permanent residential, commercial or industrial structures. The water and sewer service shall be provided by a connection to a public system as required by this Policy or an on-site system operating pursuant to law.
- “Director” shall be the Director of Public Works of the City, or his/her designee.
- “Easements” shall generally refer to the property interest necessary for the installation of maintenance of utility facilities and may include easements, rights-of-way or fee simple ownership.
- “Major Water Distribution Mains” shall generally be those water mains that are built for the purpose of distributing water for the benefit of the entire Water System or a substantial area of the Water System, and are twelve (12") inches in diameter or larger.
- “Major Sewer Collection Mains” shall generally be the sewer interceptors and outfalls twelve (12") inches in diameter or larger that are required to transport sewage from substantial areas of the Sanitary Sewer System to the Authority's regional interceptors and wastewater treatment plant.
- “Major Wastewater Pump Stations and Force Mains” shall be those wastewater pump stations and force mains specifically identified in the Master Plan as an existing or proposed part of the Sanitary Sewer System for long-term use to the benefit of a significant region of the total Sanitary Sewer System. Pump stations and force mains proposed by an Applicant to serve property development until a future gravity sewer system is extended to the property are not part of this definition.
- “Master Plan” shall be the latest version adopted by the City Council of a water system master plan and a sewer system master plan, defining the Service Area, projected scope, type, size, schedule, and costs of needed extension, expansion, and/or improvement of Base Facilities, as well as the rehabilitation, and/or replacement of any water or sewer facilities as necessary to maintain utility service in accordance with state, federal, and local regulations and meet the needs for the community's projected growth. From the effective date of this Policy until the first master plan is adopted by the City Council, Master Plan shall refer to an engineering evaluation to address a specific issue, the scope of such evaluation using similar methods as would be applied to the development of a system-wide master plan.
- “NCDENR” shall refer to the North Carolina Department of Environment and Natural Resources.
- “Off-Site Extensions” shall refer to a section of water or sewer main financed by an Applicant that is located between the nearest point of the City's existing Water System or Sanitary Sewer System to the property being served and the property line of the property being served. Extensions financed by an Applicant and installed within the property being served or within a

subdivision being developed by the Applicant are not Off-Site Extensions. Extensions financed by the Applicant and installed within a public right-of-way or easement connected to or within seventy-five (75) feet of the property being served are not Off-Site Extensions.

- “Property Extensions” shall be the extension of the City water and/or sewer system from the “Base Facilities” to individual property(ies) for service. Property Extensions generally are not defined in the Master Plan and generally the size and location, within the requirements of the Standard Specifications, are determined based on a plan to serve one or more specific developments.
- “Sanitary Sewer System” shall be the system owned by the City for collecting wastewater requiring treatment at the WSACC Regional Rocky River Wastewater Treatment Plant ("WWTP"). The system may include piping, gravity mains, manholes, clean-outs, pump stations, force mains, air release valves and other appurtenances for transporting wastewater to the WWTP.
- “Service Area” shall be the land area defined by the Master Plan for which the City either provides or anticipates providing water or sewer service within the future period defined by the Master Plan. The Service Area shall include the corporate limits of the City and may include additional land area beyond the City limits.
- “Standard Specifications” shall be the City of Kannapolis engineering standards and specifications and the Authority's Standard Specifications for Wastewater Collection and Water Distribution Construction for Cabarrus County.
- “Water System” shall be the system owned by the City for supply, treatment, and distribution of drinking water to properties receiving drinking water service. Water system may include reservoirs and dams, piping, raw water pump stations, treated water pumping stations, the City water treatment plant, and the appurtenances (valves, hydrants, meters, etc.) associated with these facilities.

Sec. 17-227 Application. Any Applicant desiring to extent the Water System or Sanitary Sewer System shall make written application using forms specified and provided by the Director.

Sec. 17-228 Conformance with Master Plan. All extensions to the Water System or Sanitary Sewer System shall be sized in conformance with the Master Plan.

Sec. 17-229 Capacity Availability. All applications for water and sewer extensions shall be reviewed by the Director for availability of capacity. Capacity shall include treatment plant capacity and capacity of the Base Facilities to be used by the proposed extensions. The Director may deny an application if the Director concludes that water supply or downstream sewer capacity is not available. If the Director concludes that the additional extension will adversely affect the level or reliability of utility service provided to an existing customer, that the extent of the demand for service by the Applicant is inconsistent with the growth assumptions included in the Master Plan, or that the demand for service is not compliant with the City’s water allocation policy or the allocation policies of the Authority, the application shall not be approved.

Sec. 17-230 Approval and Permitting. No water or sewer extension may be constructed unless engineering plans and specifications are first prepared and sealed by a Registered Professional Engineer in the State of North Carolina, and such detailed plans and specification are approved in writing by the Director and NCDENR, and an Authorization to Construct is issued in writing by NCDENR in accordance with State regulations.

Sec. 17-231 Specifications. All extensions to the City's water and sewer facilities shall conform to the Standard Specifications and shall be economically feasible and prudent.

Sec. 17-232 Contractor Licensing. All extensions to the City's water and sewer system shall be constructed by a utility contractor properly licensed by the State of North Carolina to perform the work.

Sec. 17-233 Completion, Acceptance, and Ownership. All extensions constructed under the responsibility of the Applicant shall be subject to inspection by the Director for conformance with these policies, including a final inspection. Prior to the final inspection, the Applicant shall deliver accurate and complete record drawings of the constructed improvements and provide a letter to the Director affirming that to the best of the Applicant's belief the extension is complete and compliant with the approved plans and specifications. The Applicant's letter shall also request the City accept ownership, operation and maintenance of the extension. Following the final inspection by the Director and inspection of any additional or corrective work by the Applicant necessary for acceptance, the extensions shall be formally accepted in writing by the Director as complete, at which time they may be placed into service as a part of the City system. Upon written acceptance by the Director, delivered to the Applicant, extensions constructed under the responsibility of the Applicant shall become the property of the City of Kannapolis. Occupancy or beneficial use of the extensions prior to formal acceptance by the Director shall be limited as defined in the approved plans and specifications.

Sec. 17-234 Financing By City. The City's responsibility for financing and administering the extensions of the Water System and Sanitary Sewer System shall be limited to such extensions defined in the Master Plan and within the scheduling and funding limits set forth in the adopted Capital Improvements Plan, except as approved by the City Council. The City Council may approve City financing and administering of extensions under any one or more of the following circumstances:

- (a) Extension of Base Facilities pursuant to the Master Plan and the funding and scheduling provisions of the Capital Improvements Plan. The schedule of projects beyond the current fiscal year in the Plan are subject to revision with the adoption of the next Capital Improvements Plan.
- (b) Extension of Base Facilities to a newly annexed area of the City pursuant to the Annexation Ordinance and Annexation Plan and Services Report.
- (c) Extensions to permit the City to receive and distribute water from other cities or other NCDENR approved community water systems, or extensions to permit contracting for wastewater treatment services.
- (d) Property Extensions specifically designed and constructed to eliminate a public health hazard to one or more existing developed single-family or duplex residential lots using an individual on-site well for drinking water and/or an on-site septic tank for sewer service, when the well or septic tank has tailed or is not functioning and operating properly and is a significant threat to human health, as confirmed in writing by the Health Department in the county in which the property and the well or septic tank is located. The City Council may appropriate funds in the Capital Improvements Plan set aside solely for this purpose and authorize the City Manager to direct extensions under this provision, funded either partially or totally by the City, when a significant threat to public health is confirmed as stated above.

- (e) Property Extensions approved by the City Council, based on an adequate petition for service by benefiting property owners agreeing to reimburse the City by special assessment as defined by the General Statutes of the State of North Carolina
- (f) Property Extensions authorized by vote of the City Council in public session, for purposes not otherwise defined by this Policy but declared by the City Council to be in the overall best interest of the City and the public. The specific reason or reasons of City Council for determining the extension to be in the public interest shall be stated for the public record at the time of the decision.

Sec. 17-235 Enterprise Fund. The City of Kannapolis operates water and sewer service as an enterprise fund and the continued viability of the system depends on extending resources to areas where the potential for future revenues are significant. While the City Council is not limited in how priorities are determined for budgeting the extension of Base Facilities in the Capital Improvements Plan, the Council may be guided by the following principles: (1) the City may limit its appropriation of funds in the Capital Improvements Plan for the extension of Base Facilities to the revenues on hand, or forecasted to be collected, for such purpose; and (2) the City may limit the extension of Base Facilities only to areas within the City limits or the Service Area where existing developed property exceeds 50% of the total property to be served by the facilities. The City is under no obligation whatsoever to reorder the City's priorities or schedule for the financing and extension of Base Facilities established in an adopted Capital Improvements Plan based on the service needs for proposed development from one or more Applicants.

Sec. 17-236 Financing By Applicant. The Applicant shall be responsible for financing and administering the extension of the Water System and/or Sanitary Sewer System from the existing facilities to the specific property for which the Applicant desires to receive water and/or sewer service from the City. This responsibility includes the extension of Property Extensions and the extension of Base Facilities when the developer requires new Base Facilities to be constructed in advance of the City's schedule provided in the City's Capital Improvements Plan. The exercise of such responsibility shall comply with the applicable General Requirements of this policy and the applicable Standard Specifications.

- (a) When the Applicant administers an extension of which all or a portion thereof is part of future Base Facilities addressed by the adopted Master Plan, the Applicant shall provide an extension of the size determined as required by the Master Plan. If the size required by the Master Plan is larger than 8" for a water main or 8" for a sewer main, and the size is also larger than the size required by the Applicant to serve the needs of the Applicant's development, the Applicant may be eligible for partial or total reimbursement from the City subject to the conditions specified in Article 6. If an extension includes a pump station or storage facility defined by the Master Plan, the facility shall be located in accordance with the Master Plan, shall be approved by the Director, and shall be equal to or readily expandable to the size identified in the Master Plan. Readily expandable means the expansion can take place without a significant period of service outage.
- (b) Except when eligible for reimbursement, the costs of extensions initiated by the Applicant shall be borne totally by the Applicant. More than one person may enter into a contract with each other to jointly carry out the responsibilities of the Applicant, to extend water and/or sewer service to more than one property as one construction project, provided there is clear responsibility between the persons as to who is the Applicant responsible to the City for the requirements of this policy. Such contract is subject to approval by the Director.

- (c) The Applicant shall be responsible for installing "stub-out" connections on the property(ies) the Applicant desires to connect to water and sewer service through the extension if the service will be for single-family residential homes or if the service is for multiple-family residential, commercial, industrial service which is defined to the extent that the size of the water and sewer connection can be definitely determined. "Stub-out" connections for water service include a complete "Water Service Connection" as defined by the Standard Specifications except the water meter. "Stub-out" connections for sewer service include a complete "Typical Sewer Lateral" as defined by the Standard Specifications.
- (d) The Applicant shall be responsible for acquiring all Easements outside of publicly-owned right-of-way necessary for administering an extension. Such Easements shall conform to the Standard Specifications and shall be prepared and executed in a form acceptable to the City Attorney for conveyance to the City upon acceptance of the extension by the Director. The property interest required by the City may in some events be a fee simple ownership. Easements shall be conveyed to the City of Kannapolis as a general utility, drainage or roadway easement on right-of-way. The Applicant shall make every reasonable attempt to negotiate acquisition of Easements successfully with the affected property owners, but may appeal to the City if such efforts are unsuccessful. The City Council may review such requests for appeal, and if the City Council determines reasonable efforts have been made by the Applicant, the City Council may authorize actions for easement acquisition by eminent domain. On projects where the Applicant is responsible for administering an extension, the Applicant shall reimburse the City's total expenses in Easement acquisition, to include but not limited to attorney fees, appraisal fees, survey fees, and court costs including settlement or judgment costs associated with eminent domain actions.
- (e) Any request by an Applicant to install a sanitary sewer pump station as part of an extension shall be subject to review and approval of the Director. If a future pump station is identified in the Master Plan at or near the same location, the Director may authorize the pump station but require it be sized beyond the Applicant's needs up to the capacity of service identified in the Master Plan, subject to reimbursement for oversizing. If the proposed pump station would not be necessary for future service to the Applicant's property with the addition of gravity interceptors or outfalls identified by the Master Plan, the Director may reject the request for the pump station or may condition approval upon the following conditions: (1) the Applicant shall finance 100% of the cost of the pump station and force main; (2) the Director shall determine the discharge point for the force main after concluding that the additional wastewater flow from the proposed pump station will not adversely impact either the short-term or long-term capacity of the downstream sewer to serve the development of property within the drainage basin it was designed to serve; (3) the Director shall determine that septic conditions will not result from the operation of the proposed pump station and force main; and (4) the Applicant agrees to pay a one-time fee to the City at time of City acceptance of the pump station and force main calculated by the Director based on the present worth of the cost for the City to operate and maintain, rehabilitate, and repair the pump station and force main in perpetuity under industry standards for reasonable care.
- (f) Any request by an Applicant to extend water and/or sewer to serve property beyond the Service Area, as defined by the Master Plan, shall be subject to review by the City, and the City reserves the right to accept, reject or condition such requests. The City may also direct that an engineering study be performed to fully explore the impacts of extending such service on existing and future customers within the Service Area, and if the results are favorable, may direct that the Master Plan be formally amended before a favorable decision on the Applicant's

request is made. The City may include as a condition that the engineering services involved in the study and the amendment to the Master Plan be borne by the Applicant.

This policy defines two categories of circumstances where an Applicant who finances and administers an extension of the Water System or Sanitary Sewer System may qualify for some reimbursement from the City of the Applicant's financing costs. These categories include reimbursements from City appropriated funds for Oversizing of Extensions and reimbursement of an eligible percentage of costs for Off-Site Extensions. An Applicant who proposes an extension that qualifies under both categories may receive reimbursements from both categories.

Sec. 17-237 Oversizing of Extensions: When an Applicant finances and administers an extension of the Water System or Sanitary Sewer System, which includes oversizing the extension as defined below, the City may agree to reimburse the Applicant the additional cost of the oversizing. Conditions which qualify as oversizing include the following:

- (a) Extension of a water main or a sewer main pursuant to the Master Plan which is of a greater pipe diameter than either 8" or the size required to meet the needs of the Applicant's development, whichever is greater.
- (b) Extension of a water booster pumping station or a sanitary sewer pump station pursuant to the Master Plan as a future need for the Water System or Sanitary Sewer System, when the pumping station or its equipment is sized greater than the capacity needs of the Applicant's development.
- (c) Qualification for reimbursement for oversizing is subject to the following conditions:
 - (1) The Extension must be sized and built in accordance with the City's future needs as defined in the Master Plan or as approved by the Director.
 - (2) The amount of reimbursement for which the Applicant is eligible shall be negotiated between the City and the Applicant, subject to approval of the City Council, as a lump sum representing a fair market value of the cost of the construction of the extension in excess of the fair market value of what the construction should cost if the oversizing were not a part of the project. As part of the negotiation, the City may obtain a probable opinion of construction cost from one or more qualified and disinterested estimators who compare the probable project construction cost with oversizing to the probable project construction cost required to meet the Applicant's service needs (8" minimum water and/or sewer main).
 - (3) Commitment by the City for an eligible reimbursement is subject to appropriation of funds, which is the discretion of the City Council. In reviewing an eligible reimbursement, the City Council may: (i) commit to paying the Applicant the agreed lump sum for oversizing within 60 days after the construction is completed and the project is accepted by the Director; (ii) commit to paying the Applicant the agreed lump sum for oversizing in installments for an agreed term not to exceed 10 years, based on limited availability of funds; or (iii) deny the request for reimbursement based on unavailability of funds. If the request is denied based on unavailability of funds, the Applicant may choose to construct the oversized facility without reimbursement.

- (4) Reimbursement for oversizing shall not be paid by the City to the Applicant before the constructed extension is completed and accepted in writing by the Director, and ownership of the improvements is conveyed to the City.

Sec. 17-238 Off-Site Extensions: When an Applicant finances and administers an extension of a water main and/or a sewer main that is 8-inch or larger in size and qualifies as an Off-Site Extension as defined in this policy, the City may agree to reimburse the developer a partial amount of the Applicant's total costs, as defined in the table below and subject to the conditions below:

(a) Reimbursement Table:

Length of Off-Site Water Main	Reimbursement per linear foot
First 1000 feet	\$0.00
Next 1000 feet	\$5.00
Next 1000 feet	\$10.00
Beyond 3000 feet	\$15.00
Length of Off-Site Gravity Sewer Main	Reimbursement per linear foot
First 1000 feet	\$0.00
Next 1000 feet	\$6.00
Next 1000 feet	\$12.00
Beyond 3000 feet	\$18.00

- (b) Reimbursement shall not be made by the City before the Applicant has completed all Off-Site Extensions approved for the project and the Extensions have been accepted by the City for ownership, operation and maintenance.
- (c) The schedule of reimbursement from the City to the Applicant may be either Sec. 17-237(c)(3)(i) or (ii) depending on the City's availability of funds, and reimbursements shall be subject to the appropriation of funds. Further, the City may deduct from any reimbursement payment to the Applicant any outstanding amounts owed the City by the Applicant at the time of payment.
- (d) The Off-Site Extensions and the property being served by the Applicant shall be within the Service Area defined by the Master Plan.
- (e) The City Council shall determine that the properties adjacent to the Off-Site Extension have a reasonable potential for providing additional water and/or sewer revenues to the City within the next 10 years and those added revenues would likely be sufficient to recover the amount of the proposed reimbursement to the Applicant determined by the Reimbursement Table in Sec. 17-238(a).
- (f) The City Council shall review the policy for Off-Site Extension reimbursements on an annual basis based on an annual report from the Director of reimbursements made and the additional revenues provided by connections to Off-Site Extensions within the past year.

Sec. 17-229 Extension Outside City. The City is under no obligation to extend its Water System or Sanitary Sewer System to serve property outside the corporate limits of the City of Kannapolis. However, the City Council may authorize the extension outside the corporate limits when deemed in the best interest of the City. The City Council may also make such authorization subject to the following conditions:

- (a) The City may require the Applicant to petition Applicant's property being extended water and/or sewer service for voluntary annexation into the corporate limits of the City; and
- (b) Applicant must develop the property in accordance with the requirements of the City Unified Development Ordinance as applicable; and
- (c) The City may refuse to offer reimbursement programs provided under Sec. 17-238 of this Policy to the Applicant until the property comes within the City's corporate limits. Further, time limits established under the reimbursement programs that run from the date of acceptance of the water and/or sewer extension would not be delayed if the property remains outside the City limits during all or a portion of the time period for reimbursement.

Sec. 17-240 Mandatory Connection. Mandatory connections to the Water System and/or the Sanitary Sewer System are required as follows:

- (a) The owner of any developing property within the corporate limits of the City of Kannapolis requiring water service and all or any part of the property is located within one-hundred fifty (150) feet of a water main that is a part of the Water System, or under contract for construction to become a part of the Water System, shall connect to the Water System, including payment of all required fees for service. The owner of any developing property within the corporate limits of the City of Kannapolis requiring sewer service and all or any part of the property is located within one-hundred fifty (150) feet of a gravity sewer main that is a part of the Sanitary Sewer System, or under contract for construction to become a part of the Sanitary Sewer System, shall connect to the Sanitary Sewer System, and are subject to any required state approval necessary, including payment of all required fees for service.
- (b) The owner of any developed property within the corporate limits of the City of Kannapolis where all or any part of the property is located within one-hundred fifty (150) feet of a water main that is a part of the Water System, which obtains potable water service from an existing well which becomes contaminated, fails to comply with public health rules and regulations, or requires reconstruction or maintenance and repair expenses, shall cap and abandon the well and connect to the Water System, including payment of all required fees for service. The owner of any developed property within the corporate limits of the City of Kannapolis where all or any part of the property is located within one-hundred fifty (150) feet of a gravity sewer main, that is a part of the Sanitary Sewer System, which obtains sewer service from a septic tank or other on-site treatment system which fails to comply with public health rules and regulations, or requires reconstruction or maintenance and repair expenses, shall abandon the septic tank or on-site system and connect to the Sanitary Sewer System, including payment of all required fees for service.
- (c) The City Manager or his designee may waive the requirement for mandatory connection to the Water System and/or Sanitary Sewer System specified in this Section 17-240, for a specific property, when the City Manager or his designee determines that due to natural or man-made obstructions or unusual conditions, enforcing a mandatory connection will result in unusual and significant requirements and costs either to the property owner or the City. Such obstructions

may include requirements to comply with environmental or other laws or regulations, or unreasonable conditions for obtaining necessary right-of-way, in the judgment of the City Manager or his designee.

- (d) Permits for the construction or repair of wells or septic tanks shall not be issued to property within the corporate limits of the City of Kannapolis, by appropriate governmental jurisdictions before the appropriate officials have been advised in writing by the Director, that connection of that property to the Water System or Sanitary Sewer System is not required under this policy.

Sec. 17-241 Service. The City does not warrant nor guarantee that the capacity, volume, pressure, or quantity of service provided will be adequate to meet the needs of any Applicant or customer. The Applicant is responsible for detaining the adequacy of service for their uses, intents and purposes prior to applying for service from the City. The current level of service provided in any part of the water or sewer system which may be above that required to provide normal, domestic service is not guaranteed for any time in the future. The City shall accept applications on a first come, first served basis. Completion of studies or cost estimates for provision of service does not guarantee the Applicant's ability to secure water or sewer service.”

Adopted this the 9th day of June, 2014.

Milton D. Hinnant
Mayor

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk