

LIBER 0028 FOLIO 206

Subject: An ordinance to amend Use Number 98, Utility, Minor; and create a new use, Use Number 98A, Utility, Minor, Private, as a limited use allowed in all zoning districts, all Critical Area Overlays, and the AICUZ subject to conditions.

Page 1 of 5

**ORDINANCE**

**AN AMENDMENT TO CHAPTER 285 OF THE CODE OF ST. MARY'S COUNTY, MARYLAND, USE NUMBER 98, UTILITY, MINOR, OF THE COMPREHENSIVE ZONING ORDINANCE BY ADDING THE WORD "PUBLIC," AND CREATING A NEW USE NUMBER 98A, UTILITY, MINOR, PRIVATE AS A LIMITED USE IN ALL ZONING DISTRICTS**

**WHEREAS**, pursuant to §4-101 through §4-104 of the *Land Use Article* of the *Annotated Code of Maryland*, the Commissioners of St. Mary's County are authorized to establish zoning districts and prescribe and amend regulations applicable in such districts; and

**WHEREAS**, Use Number 98 Utility, Minor in Schedule 50.4 in the Comprehensive Zoning Ordinance, when publicly owned, is a permitted use in all zoning districts; AICUZ, and Critical Area Overlays; and

**WHEREAS**, the Commissioners of St. Mary's County find that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to amend Use Type 98, Utility, Minor, in Schedule 50.4 and to add a new use, Utility, Minor, Private, Use Number 98A in Schedule 50.4, as a limited use in all zoning districts, all Critical Area Overlays, and the AICUZ, subject to §51.3.98A Specific Regulations and Standards in Chapter 285 of the *Code of St. Mary's County, Maryland*, St. Mary's County Comprehensive Zoning Ordinance; and

**WHEREAS**, a notice of a public hearing was advertised on February 14, 2020, and February 21, 2020, in *The Enterprise*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on March 3, 2020, to receive public comment and consider amending Use Number 98, Utility, Minor to Utility, Minor, Public; and adding a new use Use Number 98A Utility, Minor, Private to Chapter 285 of the *Code of St. Mary's County, Maryland*, St. Mary's County Comprehensive Zoning Ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the Commissioners of St. Mary's County, pursuant to §4-101 through §4-104 of the *Land Use Article* of the *Annotated Code of Maryland*, that:

**SECTION I.** The title of Use Type 98, Utility, Minor, in Schedule 50.4 and the heading of §51.3.98 in the Comprehensive Zoning Ordinance is amended to include the word "Public."

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Use Type	Use Intensity	RPD	RSC	RCL	RL-T	RL	RM	RH	RNC	RMX	VMX	TMX	CMX	MXH	MXM	MXL	LCI	I	OBP	CM	Critical Area Overlay	AICUZ Overlay and FAR	
Transportation, Communication, and Utility Use																							
98. Utility Minor, Public	Low	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	RCA LDA IDA	APZ-1 (0.28) APZ-2 (0.56)

§51.3.98 Utility, Minor, Public

**SECTION II.** A new use, Use Number 98A, Utility, Minor, Private, is added to Schedule 50.4 of the Comprehensive Zoning Ordinance:

Use Type	Use Intensity	RPD	RSC	RCL	RL-T	RL	RM	RH	RNC	RMX	VMX	TMX	CMX	MXH	MXM	MXL	LCI	I	OBP	CM	Critical Area Overlay	AICUZ Overlay and FAR	
Transportation, Communication, and Utility Use																							
98A. Utility Minor, Private	Low	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	RCA LDA IDA	APZ-1 (0.28) APZ-2 (0.56)

**SECTION III.** The description of the new Use Number 98A Utility, Minor, Private, is added to §50.4 of the Comprehensive Zoning Ordinance as follows:

98A. Utility, Minor, Private: A privately-owned utility that is necessary to support legally established uses and involves only minor facilities or structures such as a small drainage channel; aqueduct; small sewer or water pump station or substation; an onsite sewage disposal system; above ground distribution or transmission lines including service for telephone or cable television; underground water, sewer, drainage, gas, electricity, telephone, or related utility lines; recycling centers; telephone switching centers; and telegraph or cable television transmitting offices.



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Page 3 of 5

**SECTION IV.** §51.3. Specific Regulations and Standards is amended by adding a new number, 98A Utility, Minor, Private, and the General and Limited Standards applicable to Use Number 98A, Utility, Minor, Private in the Comprehensive Zoning Ordinance:

98A. Utility, Minor, Private

a) General Standards:

- i. Site plan approval shall be required
- ii. Electric Transmission Lines
  - 1) Route Approval. Written evidence of route approval from the Maryland Public Service Commission shall be furnished with the application for site plan approval.
  - 2) Buffering. Switching yards shall be buffered with not less than an "A" buffer. Understory trees may be substituted for canopy trees in the buffer.

b) Limited Standards

- i. Offsite private utilities cannot be used to provide utility services to an undeveloped parcel or to reestablish an abandoned non-conforming use; and
- ii. Offsite property proposing to install an onsite sewage disposal system must be owned by the eligible property generating the sewage flow (i.e. both properties must be under the same ownership); and
- iii. A private minor utility system, facility, or structure may be installed to remedy a system failure as identified by the Maryland Department of the Environment, the County Environmental Health Department, or the Southern Maryland Electric Cooperative (SMECO) to:
  - 1) Continue or reestablish occupancy of a legally-established conforming non-residential structure, or
  - 2) Continue occupancy of a grandfathered non-conforming non-residential structure.
  - 3) Legal expansion of an existing conforming use, or enlargement or alteration of a grandfathered nonconforming use in accordance with §52.3 Alterations and Enlargements may be served by an offsite private minor utility.

c) Critical Area Standards

- i. Within the Critical Area, the private minor utility use is limited to an onsite sewage disposal system (OSDS).
- ii. The OSDS may be located on a nonadjacent lot.

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- iii. Any alteration or expansion of a nonconforming use must be in accordance with §52.3 Alterations and Enlargements.
- iv. In the RCA:
  - 1) The OSDS is limited to a grandfathered, non-residential structure in order to remedy a system failure as identified by the Maryland Department of the Environment, or the County Environmental Health Department, or the Southern Maryland Electric Cooperative (SMECO).
  - 2) The replacement OSDS may be located in the RCA to serve an LDA or IDA property without growth allocation.

**SECTION V:** Amend §74.3.1, Performance Standards for Protecting the Seasonal High Water Table in the Critical Area by deleting “on-site septic systems” and replacing it with “an onsite sewage disposal system” in the Comprehensive Zoning Ordinance:

1. In order to minimize the impacts of surface land use on the seasonal high water table, development that requires an onsite sewage disposal system in the Chesapeake Bay Critical Area shall be located away from areas susceptible to leaching because of topography and soils and areas where the depth of the seasonal high water table is between zero and three feet.

**SECTION VI:** This Ordinance shall be effective upon the date written below.

Those voting Aye: \_\_\_\_\_ 4 \_\_\_\_\_

Those voting Nay: \_\_\_\_\_ 1 \_\_\_\_\_

Those Abstaining: \_\_\_\_\_ 0 \_\_\_\_\_

Date of Adoption: \_\_\_\_\_ 5/19/2020 \_\_\_\_\_

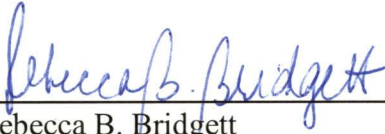
Effective Date: \_\_\_\_\_ 6/2/2020 \_\_\_\_\_

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ATTEST:

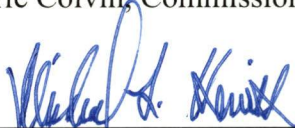
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\_\_\_\_\_  
Rebecca B. Bridgett  
County Administrator

  
\_\_\_\_\_  
James R. Guy, Commissioner President

  
\_\_\_\_\_  
Eric Colvin, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Michael L. Hewitt, Commissioner

  
\_\_\_\_\_  
David A. Weiskopf  
County Attorney

  
\_\_\_\_\_  
Todd B. Morgan, Commissioner

  
\_\_\_\_\_  
John E. O'Connor, Commissioner