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LUGM SOP # 24-0002

<b>EDU Transfer Program</b>	
<b>Purpose</b>	<p>The EDU Transfer Program is created as a means to further the objectives of the St. Mary's County Comprehensive Plan and St. Mary's County Comprehensive Water and Sewerage Plan (CWSP) by allowing the transfer of inactive sewer EDUs from one lot or parcel of land to another within the same wastewater treatment plant service area as further defined in the CWSP. At this time, the Program is not intended to apply to water EDUs.</p> <p>The EDU Transfer Program is intended to give property owners an alternative to further development by creating a means to recover some of the value associated with one or more inactive EDUs on residential or commercial property; participation is voluntary.</p>
<b>Reference(s)</b>	<p>St. Mary's County Comprehensive Water and Sewerage Plan (2017) Section 1.3. "Water and Sewerage Service Areas" Section 1.6. "Allocation of Sewer Capacity"</p> <p>Chapter 113 of the St. Mary's County Code (2024)</p> <p>St. Mary's County Comprehensive Plan (2010)</p> <p>St. Mary's County Comprehensive Zoning Ordinance (2016) (as amended)</p>
<b><u>Section 1.0</u></b>	<p><b><u>DEFINITIONS</u></b></p> <p><b>1.1 Application Fee.</b> The term "Application Fee" shall mean the fee approved annually by the Commissioners of St. Mary's County, Maryland in the County's annual budget.</p> <p><b>1.2 Application.</b> The term "Application" shall mean the document approved by the Director, signed by all owners of the Sending Property and Receiving Property, and filed with the Department indicating (a) an intent to transfer one or more EDUs; and (b) a demonstrated need for the transfer and use of the EDUs. A demonstrated need is shown by the filing of a Concept Site Plan, a Minor Site Plan, or a building permit application with the Department or confirmation from the St. Mary's County Health Department that the Receiving Property has a failing onsite system.</p>

**1.3 Certificate of Transfer.** The term “Certificate of Transfer” shall mean an instrument approved by the Director, signed by the owners of the Sending and Receiving Property, and filed with the Department that effectuates the transfer of one or more inactive EDUs from a Sending Property to a Receiving Property.

**1.4 Director.** The term “Director” shall mean the Director of the Department Land Use & Growth Management or their designee.

**1.5 EDU.** The term “EDU” shall have the meaning set forth in Chapter 113-1.F of the St. Mary’s County Code.

**1.6 Inactive EDU.** The term “Inactive EDU” shall mean an EDU that is allocated to a lot or parcel of land but that is not connected.

**1.7 Notice.** The term “Notice” shall mean the Notice of Intent to Transfer approved by the Director and filed with the Department indicating the availability of inactive EDUs desired to be transferred in accordance with this EDU Transfer Program. Such Notice shall include: (a) owner’s name and premises address of the Sending Property; (b) owner’s mailing address, if different from the premises address; (c) number of inactive EDUs available for transfer; (d) the price per EDU; (e) the date of Notice; (f) any other applicable terms and conditions of the transfer.

**1.8 Receiving Property.** The term “Receiving Property” shall mean any lot or parcel of land that will receive a transferred EDU in accordance with this policy.

**1.9 Sending Property.** The term “Sending Property” shall mean any lot or parcel of land with an inactive EDU to be transferred to a Receiving Property in accordance with this policy.

**Section 2.0** **RIGHT TO TRANSFER EDUs**

**2.1** The owner of a Sending Property may sever any inactive EDUs from a lot or parcel of land and transfer them to a Receiving Property in the same wastewater treatment plan service area subject to the following:

**2.1.1 Ineligibility.** No EDUs may be derived from land that is already expressly prohibited from development rights by virtue of a recorded restrictive covenant, allocation policy, consent agreement, or County Commissioner Resolution (including but not limited to those listed in Section 1.6 of the Comprehensive Water & Sewerage Plan). Additionally, the receiving property must be in the correct sewerage Service Category as defined in the CWSP (e.g., S-1 or S-3D). A formal Category Change shall be required for other categories as noted in the CWSP prior to transfer.

**2.1.2 Required Notice.** An owner of a property that has inactive EDUs available for sale/transfer shall file a Notice with the Department that complies with Section 1.7.

**2.1.2.1** Upon receipt of the Notice, the Director or their designee shall publish the contents of the Notice on the Department's webpage.

**2.1.2.2** No Application for Transfer may be filed with the Department until thirty (30) days after the Notice is published on the Department's webpage.

**2.1.2.3** The Application for Transfer shall include an affidavit stating that within the thirty (30)-day Notice period, the owner of the Sending Property either (a) did not receive any offer from a Receiving Property with a failing onsite septic system to purchase one or more of the inactive EDUs or (b) if any such offer was received, no agreement could be reached.

**2.1.2.4** In the event that the owner(s) of the Sending Property desires to transfer the EDU to a lineal descendant whose property is within the same wastewater treatment plant service area, this thirty (30)-day Notice period shall not apply.

**2.1.2.5 Applications.** After the expiration of the thirty (30)-day Notice period referenced in Section 2.1.2.2, applications may be filed with the St. Mary's County Department of Land Use & Growth Management at any time as part of the development review process in accordance with CWSP § 1.6.

**2.1.3 Required Reserve.** An otherwise eligible Sending Property with onsite systems must retain the number of EDUs sufficient to meet the demands of any existing or proposed use if such use has obtained Department approval of a site plan and/or building permit to ensure adequate sewage disposal in the event of a failure of any onsite system.

**2.1.4 Account(s) in Good Standing.** Any and all account(s) of the Sending Property must be in good standing with MetCom.

**2.1.5 Fractional Rights.** An EDU may not be transferred in fractional parts.

**2.1.6 Denial of Transfer:** The County reserves the right to deny any request for transfer where such a request would compromise the integrity or capacity of the public sewer system or compliance with any Federal, State, or local laws, regulations, or resolutions associated with the operation of same.

**Section 3.0** **ADMINISTRATION**

**3.1** Any Application to Transfer EDUs shall be made in the form and manner prescribed by the Director and shall be accompanied by a certificate of title prepared by an attorney duly licensed to practice law in the State of Maryland.

**3.1.1** The Application to Transfer shall include an affidavit stating that within the thirty (30)-day Notice period required by Section 2.1.2.2, the owner of a Sending Property either (a) did not receive any offer from a Receiving Property with a failing onsite septic system to purchase one or more of the inactive EDUs or (b) if any such offer was received, no agreement could be reached.

**3.1.2** If the EDU is subject to the transfer is exempt from the thirty (30)-day Notice period under Section 2.1.2.4, then the Application of Transfer shall include an affidavit stating the relationship between the owner of the Sending Property and the owner of the Receiving Property.

**3.2** The owner of the Receiving Property must demonstrate to the County that the transfer complies with the County Comprehensive Water and Sewerage Plan.

**3.3** The owner of the Receiving Property shall demonstrate that there are or there will be in place capacities and facilities to serve the property without additional cost to the County and the St. Mary's County Metropolitan Commission.

**3.4** Upon the Director's receipt of a fully executed Certificate of Transfer, all rights connected to the EDUs subject to the Certificate of Transfer shall be deemed transferred from the Sending Property to the Receiving Property. A Sending Property is not prohibited from becoming a Receiving Property in any future transfer.

**3.5** The Application to Transfer EDUs shall be made at the time of development review for the Receiving Property. The transfer and re-allocation of the EDU to the Receiving Property shall be in accordance with § 1.6 of the CWSP.

**3.6** Prior to approving an Application for Transfer of EDUs, the Director shall confirm that the Sending Property complies with the required reserve as set forth in 2.1.2 above.

**3.7 Certificate of Transfer.** Upon the Director's approval of an Application for Transfer of EDUs as having satisfied the conditions of this policy, the owner(s) of the Sending Property and Receiving Property shall execute a Certificate of Transfer, which shall be recorded among the Land Records of St. Mary's County, Maryland. All Certificates of Transfer shall contain:

- 3.7.1 The names of all owners of the Sending Property and Receiving Property;
  - 3.7.2 The effective date of the transfer;
  - 3.7.3 A covenant by which all owners of the Sending Property grant and assigned to the owners of the Receiving Property and their heirs, personal representatives, successors, and assigns a specified number of capacity rights (EDUs) from the Sending Property;
  - 3.7.4 A covenant by which all owners of the Sending Property acknowledge no further use or right of use with respect to the EDUs being transferred;
  - 3.7.5 A description of the Sending Property, either from the recorded deed or boundary survey that has been prepared, signed, and sealed by a duly licensed professional land or duly licensed property line surveyor, provided that if a boundary survey is used the instrument shall also reference the deed recording reference;
  - 3.7.6 A covenant that the Sending Property may not be developed and/or used to a greater extent than permitted by the remaining EDUs in place at the time, if any, that the development and/or use is approved;
  - 3.7.7 A covenant that all provisions of the Certificate of Transfer shall run with and bind the Sending Property and Receiving Property;
  - 3.7.8 A statement of the actual consideration paid or to be paid by the owner(s) of the Receiving Property; and
  - 3.7.9 A statement of any grandfathering from any MetCom fees (i.e., Capital Contribution Charges) that were previously paid by the owner(s) of the Receiving Property or that were previously connected and flowing.
- 3.8 Upon recordation of the Certificate of Transfer, the Director shall forward an allocation letter to MetCom. Upon receipt of the allocation letter, MetCom will adjust the billing accounts and the owner(s) of the Receiving Property shall assume the responsibility of paying any and all applicable MetCom charges and fees beginning the first full month after the effective date of transfer.
- 3.9 **Right of Transferees.** Between the time of the transfer of an EDU by the owner(s) of the Sending Property and the time when its use on the Receiving Property is final, the owner(s) of the Receiving Property has only the right to use the EDU to the extent authorized by all applicable provisions of this policy and the St. Mary's County Comprehensive Zoning Ordinance in effect at the time when use of the EDU for the Receiving Property is finally approved.

**3.10 List of Properties with Failing Systems.** The Director shall obtain information from the Health Department in order to maintain a waiting list of any lots or parcels of land within each sanitary sewer service area with failing onsite systems that do not have sufficient EDUs allocated to replace any failing systems.

Effective Date: August 30, 2024

*Qsbandritz*

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Director