

Policy 2005-4

Equivalent Residential Unit Transfer

Explanation

The initial design and construction of the Deep Creek Lake Sewer System (the “System”) involved an allocation of sewer capacity expressed in terms of Equivalent Residential Units (“ERU’s”). One ERU represents 262.5 gallons of daily wastewater flow. The allocation of sewer capacity in the initial design and construction resulted in ERU’s being assigned to individual properties, many of which have not been developed. ERU’s for the undeveloped property are inactive (“Inactive ERU’s”) and those who own property and hold Inactive ERU’s pay an inactive fee in order to secure and maintain the right to develop the property with sewer service at some point in time in the future.

Since the construction of the System and the initial allocation of ERU’s, issues have developed concerning requests for transfer of ERU’s from one property to another or from one holder of ERU’s to another. The Garrett County Sanitary Commission, as governing body of the Garrett County Sanitary District, Inc., adopted, in August 1988, a policy concerning the transfer of ERU’s as a part of the Second Amendment to the Sewer User Rate Study. The policy of the Sanitary District, as enacted, prohibited transfers of ERU’s without the express consent of the Sanitary Commission. The Board of County Commissioners for Garrett County, Maryland (the “County”) now governs the affairs of the Garrett County Sanitary District and it is the desire of the County to establish a clear and definite policy concerning any request for transfer of ERU’s associated with the System. The object and purpose of a policy is to define those circumstances when transfer of ERU’s may be permitted.

1. Current Sewer Capacity

A. Transfer of ERU’s allocated in accordance with the provisions of Policy 2005-3 1.B. will not be permitted. New ERU’s issued prior to completion of the construction of the expanded wastewater treatment facilities, utilizing current capacity, may not, under any circumstances, be transferred from the property to which the ERU has been assigned.

B. Transfer of ERU’s allocated in accordance with the provisions of Policy 2005-3 2.A. will not be permitted. ERU’s issued prior to completion of the construction of the expanded wastewater treatment facilities, pursuant to Policy 2005-3 2.A., may not, under any circumstances, be transferred from the property to which the ERU has been assigned.

C. The holders of ERU's that have been allocated in respect to specific property prior to February 1, 2005, may transfer ERU's subject to the following:

- (i) All requests for transfer of ERU's shall be in writing submitted to the County Administrator in such form as the County may from time to time designate.
- (ii) Sale or Transfer of Property – Active ERU's.
 - (a) In the event of a sale or transfer of property that has an Active ERU, that ERU assignment and the allocation associated with the specific real property shall transfer upon recordation of a Deed conveying title to the real property. Upon recordation, the accounts and ERU's associated with that real property shall be transferred on the books and records of the County. No transfer of an ERU, once activated, shall be permitted except upon transfer of title to the property for which the ERU is assigned.
- (iii) Sale or Transfer of Property – Inactive ERU's.
 - (a) In the event of a sale or transfer of property that has an Inactive ERU, that ERU assignment and the allocation associated with the specific real property shall transfer upon recordation of a Deed conveying title to the real property. Upon recordation, the accounts and the Inactive ERU's associated with that real property shall be transferred on the books and records of the County. The owner of the property for which the Inactive ERU has been assigned, shall be obligated to pay any and all charges, including inactive fees, that are or may be associated with that allocation.
 - (b) Any request for transfer of an Inactive ERU which is not associated with a conveyance of real property but, rather, represents a request by the holder of the ERU allocation to transfer from one property owned by the holder to another property owned by the holder shall be subject to the following:
 - (1) The holder of the ERU must demonstrate to the County that the property intended to be served by the ERU allocation after transfer is in compliance with the water and sewer master plan of the County;
 - (2) The holder of the ERU must demonstrate to the County that the provision of sewer service to the property is feasible from a financial perspective;
 - (3) The holder of the ERU must demonstrate to the County that the provision of sewer service to the property is feasible from an engineering perspective; and
 - (4) The party requesting the transfer shall pay any and all costs incurred by the County in investigating or determining the financial and

engineering feasibility of the provision of sewer service to the property to which the ERU allocation transfer is sought, as well as any fee that may be imposed by the County in respect to the transfer.

D. It shall be the obligation of the party seeking transfer to demonstrate to the County, in terms of the engineering and financial feasibility, that there are or there will be in place capacities and facilities to serve the property without additional cost to the County. In the event that the provision of service to the property to which the ERU allocation is sought results in additional costs to the County, the transfer will only be approved upon payment by the holder of those costs.

E. The property from which the ERU allocation is being transferred will forfeit any right to receive service until or unless an additional allocation of ERU's is made in accordance with the policies of the County. In the event that the County approved a transfer of ERU's, as having satisfied the conditions of this Policy, the owner of the property from which the ERU allocation has been transferred shall execute an Agreement, in the form set forth on Exhibit 1 to this Policy, which shall be recorded among the Land Records of Garrett County, Maryland, demonstrating that the property from which the ERU allocation and transfer has occurred has then forfeited any right or claim to receive sewer service in accordance with the ERU's previously allocated to that property.

F. The County and the Department of Public Utilities (the "Department") reserve the right to deny any request for transfer where such a request would compromise the integrity of the System and/or compliance with any State or Federal laws or regulations associated with the operation of the System.

This act shall take effect on the 8th day of March, 2005, upon having been duly executed by the Board of County Commissioners of Garrett County, Maryland, at a meeting duly held on the 8th day of March, 2005

**BOARD OF COMMISSIONERS OF
GARRETT COUNTY MARYLAND**