

NOTICE

Issued by the Department of

Planning & Growth Management

Expiration of SWM Administrative Waivers

Notice #
16-08

Release Date
May 19, 2016

Contact
Frank W. Ward
Chief
Codes, Permits &
Inspection Services

Phone
301-645-0618

Charles County
Government

Department of
Planning & Growth
Management

Peter Aluotto
PGM Director



Equal Opportunity
County
Say No To Drugs

The purpose of this notice is to clarify the County's policy and provide a directive for Development Services Permit projects that were granted and are holding a valid Stormwater Management Administrative Waiver (AW). This directive is based on the information received from the Maryland Department of the Environment (MDE).

The attached document (page 2 thru 4) provides the background for AW and outline those items, as a minimum, that will need to be performed for the project's Stormwater Management Facilities to be considered by the County as being "complete" by the May 4, 2017 expiration date. It also includes a provision for a third party inspection as well as phased projects.

This document will be effective on this release date.

"Those citizens with special needs, please contact Virginia Cooper, Charles County Department of Planning and Growth Management; Division of Codes, Permits & Inspection Services, voice phone number (301)645-0618 or Maryland Relay Service TDD 1-800-735-2258."

EXPIRATION OF SWM ADMINISTRATIVE WAIVERS

CHARLES COUNTY, MD

Background

The Stormwater Management Act of 2007 became effective on May 4, 2009. Projects are required to comply with the new regulatory requirements, unless final approval for erosion and sediment control and stormwater management plans was granted by May 4, 2010.

The Maryland Department of the Environment (MDE) issued a document titled, “Stormwater Management Regulations Guidance for Implementation of Local Stormwater Management Programs” in March 2010. This guidance document addressed three provisions, one of which was “grandfathering” of projects that had advanced partially through the development approval process but would not receive “Final Approval” by May 4, 2010. Projects that were granted Administrative Waivers, based on Preliminary Project Approval, would have the Administrative Waiver expire unless they obtained Final Project Approval by May 4, 2013. Final Project Approval was determined by the approval of the final erosion and sediment control plan for the project’s stormwater facilities and approval of the final stormwater management plan.

Charles County adopted their Stormwater Management Ordinance on June 15, 2010, which became effective on August 1, 2010. Under the Administrative Variances and Waivers, Section 7.2 B Expiration of Administrative Waiver, item 2, the Administrative Waiver “shall expire on May 4, 2017, regardless of when the development received preliminary or final stormwater management approval”.

Administrative Waiver Construction Completion

Charles County, in approving the Administrative Waiver, clearly noted, “ Administrative Waiver will expire on May 4, 2017 unless the project has stormwater management and sediment and erosion control construction for the stormwater management facilities completed and accepted by the County”.

The Stormwater Management Ordinance under Section 11.9 Final Completion Acceptance for Stormwater Management, states, “After all stormwater management work has been completed and approved and the required documents have been submitted and approved the Department will issue a certificate of final completion acceptance to the developer.”

Based on the number of Administrative Waivers, it is anticipated that County Inspection Staff may not be able to perform all of the compliance inspections being requested during the month prior to the May 4, 2017 deadline. Therefore, the County may allow a Professional Engineer

licensed in the State of Maryland to perform a third party inspection along with the submission of a construction completion certification to fully document the construction compliance prior to the May 4, 2017 deadline date.

MDE, in their October 2015 guidance document, noted that each project is unique and decisions regarding construction completion would be left to the local jurisdiction, which are more familiar with the details of each project. MDE also noted that completion should include all stormwater management practices and associated infrastructure, including stormwater conveyance systems, as well as the completion of a sediment trapping device that will be converted to a Stormwater Management Facility.

Since the sequence of construction of the Stormwater Management Facilities are defined by the sediment and erosion control plans, the completion of these Stormwater Management Facilities must include the final stabilization of disturbed surfaces.

Therefore, to provide initial guidance for those projects holding a valid Administrative Waiver and are under construction, the following items, as a minimum, need to be performed for the project's Stormwater Management Facilities to be considered by the County as being "complete":

1. All Stormwater Management Practices as shown on the approved plans, have to be constructed to final grade with outlet control devices installed. If a proposed Stormwater Management Facility is currently functioning as a sediment trapping device, and this sediment trapping device is about to be converted to a Stormwater Management Facility upon permanent stabilization of the site, then this trapping device needs to be prepared for final conversion. The disturbed area associated with these practices has to be stabilized (in accordance with the approved Sediment and Erosion Control Plan) and these practices functioning as designed;
2. If a proposed Stormwater Management Facility is currently acting as a sediment trapping device and is to remain unconverted due to ongoing construction activity within the drainage area to the device, then the sediment trapping device shall be installed in accordance with the approved Sediment and Erosion Control Plan. Rip-rap erosion prevention pads at all outlets must also be completed. All of the adjacent associated storm drainage conveyance systems necessary for the functioning of the Stormwater Management Facility must be constructed / installed. This sediment trapping device must be converted to a Stormwater Management Facility upon construction completion within the drainage area and permanent stabilization of that area;

3. As-built Plans and Geotechnical Reports verifying construction compliance of the Stormwater Management Facilities / sediment trapping devices with the approved plans and specifications must be submitted to the County, for review and approval;
4. The removal of sediment erosion control devices, such as silt fencing, may not need to be performed in order to classify the work as “complete”, provided that the approved Sediment and Erosion Control plan is active and enforceable.
5. The Sediment and Erosion Control plan is complete only once the site is adequately stabilized. The Owner/Developer is required, as he/she certified on the approved Sediment and Erosion Control Plan, to adequately stabilize the site with vegetation. Once vegetation is established, the site shall have 95% ground cover to be considered adequately stabilized.

Administrative Waiver May 4, 2017 Expiration Date

Projects that will have Stormwater Management Facilities fully completed and also have sediment trapping devices ready for final conversion by May 4, 2017 will have satisfied the Administrative Waiver approval conditions.

If construction activities, in accordance with the approved construction plans associated with the Administrative Waiver, within the drainage area to a completed Stormwater Management Facility are not finalized, then that completed Stormwater Management Facility, as well as the activity within that contributing drainage area are exempt from the requirement to provide for Stormwater Management in accordance with the 2007 Maryland Stormwater Act.

Projects that will not have Stormwater Management Facilities completed as described above by May 4, 2017 will have their Administrative Waiver expire on that date. It is anticipated that a “Notification of Non-Compliance” per Section 11.7 of the Stormwater Management Ordinance will be issued. Those projects will then be required to address Stormwater Management through the three-step permitting process under the current regulatory requirements.