

Washington County Grading, Stormwater Management and Soil Erosion and Sediment Control Ordinance

Summary of Comments from Maryland Department of Environment

Received July 9, 2010 (via telephone)

1. **MDE Comment:** On page 7, Section 1.6.1.C. second sentence, please revise wording to refer to MDE's Model Ordinance, page 2, item 4, to clarify what "certain criteria contained in regulations established by MDE" means.

Recommended Revision: "Upon receiving a request for an administrative waiver by a Developer (or Agent for the Developer) and subject to a review for compliance with the requirements of Section 1.2.D. (4) of the Maryland Model Stormwater Management Ordinance, June 2009 and April 2010, and regulations established by the Division and the District; the Director may grant an administrative waiver for preliminary SWM plan review prior to May 4, 2010."

2. **MDE Comment:** On page 18, Standard Grading Plan definition, please remove the words "when SWM is not required".

Recommended Revision: "Standard Grading Plan. Means a standard plan of requirements for a single residential lot, depicting requirements for the proposed grading, and incorporates a standard soil erosion and sediment control plan, that may be used for development when the proposed disturbance area is greater than or equal to 5,000 square feet or 500 cubic yards of volume (excavation or fill), but does not exceed 15,000 square feet or 500 cubic yards of volume (excavation or fill)."

3. **MDE Comment:** On page 19, Waiver definition, please delete the first sentence.

Recommended Revision: "Waiver. Means the reduction of SWM requirements by the Division for a specific development on a case-by-case review basis."

4. **MDE Comment:** On page 24, Section 3.2.2, please replace with exact wording from MDE's Model Ordinance. Add a new section to incorporate Section 3.3 D of MDE's Model Ordinance.

Recommended Revision: "Except as provided in Section 3.2.8 of this ordinance, if watershed management plans consistent with Section 3.2.7 of this Article have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:

- A. That have direct discharges to tidally influenced receiving waters;
- B. That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:
 - a. Public water and sewer and stormwater conveyance exist;
 - b. The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;
 - c. ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and
 - d. ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
- C. When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

3.2.8 Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and the 2001 Washington County Stormwater Ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.”

5. **MDE Comment:** On page 25, Section 3.2.6, please move the second sentence starting with “Any Waiver” to be the first sentence of this section.

Recommended Revision: “Any Waiver of SWM does not relieve the applicant of providing an adequate storm drainage system. Any existing on-site or off-site storm drainage systems that are considered inadequate to accommodate the proposed development must be improved prior to development. This policy may be applied to correct an existing inadequate outfall, and may aid in meeting the requirement for adequate drainage.”

6. **MDE Comment:** On page 25, Section 3.2.7, please delete the first sentence.

Recommended Revision: “A watershed management plan developed for the purpose of implementing different SWM policies for Waivers and redevelopment shall:...”

7. **MDE Comment:** On page 26, Section 3.3.4, please replace with exact wording from Model Ordinance page 13, D.

Recommended Revision: “Washington County Division of Public Works may develop separate policies for providing water quality treatment for redevelopment

projects if the requirements of Section 3.3.1 and Section 3.3.2 of this Article cannot be met. Any separate redevelopment policy shall be reviewed and approved by the MDE and may include, but not be limited to:

- A. A combination of ESD and an on-site or off-site structural BMP;
 - B. Retrofitting including existing BMP upgrades, filtering practices and off-site ESD implementation;
 - C. Participation in a stream restoration project;
 - D. Pollution trading with another entity;
 - E. Payment of a fee-in-lieu; or
 - F. A practical waiver of the treatment requirements if ESD is not practicable.”
8. **MDE Comment:** On page 34, Section 3.7.1.E, please replace the first sentence with “Plan approval will not be granted until suitable evidence of any required permission from adjacent property owners in accordance with Section 3.9, is provided to the Division.”
9. **Recommended Revision:** “Plan approval will not be granted until suitable evidence of any required permission from adjacent property owners in accordance with Section 3.9, is provided to the Division. This evidence of permission and plan approval shall not create or affect any property rights afforded to the property owner under Maryland law.”
10. **MDE Comment:** On page 45, Section 3.14.1.C., please insert the term “ESD” before the word “practices”.

Recommended Revision: “All non-structural ESD practices shall be inspected, at a minimum, upon completion of final grading, the establishment of permanent stabilization, and a Grading Certification shall, in accordance with Article 4, be provided to the Division before issuance of use and occupancy permit.”