



FREDERICK COUNTY PLANNING COMMISSION

March 11, 2015

TITLE: SWMP Amendment

FILE NUMBER: SWMP 15-01

REQUEST: SWMP Finding of Consistency
Review of the Solid Waste Management Plan (SWMP) to determine whether the proposed amendment is consistent with the County Comprehensive Plan.

PROJECT INFORMATION:

LOCATION: N/A
ZONE: N/A
REGION: N/A
WATER/SEWER: N/A
COMP. PLAN/LAND USE: N/A

APPLICANT/REPRESENTATIVES:

APPLICANT: DUSWM
OWNER:
ENGINEER:
ATTORNEY:

STAFF: Jim Gugel, Planning Director and Phil Harris, Division of Utilities and Solid Waste Management (DUSWM)

RECOMMENDATION: Staff recommends that the Frederick County Planning Commission find that the 2015 Update and Amendments to the SWMP are consistent with the Frederick County Comprehensive Plan.

ATTACHMENTS:

1. Memo from Kevin Demosky, Director of DUSWM
2. Amendment Summary
3. MDE letter dated May 16, 2014
4. View the SWMP Amendments at www.frederickcountymd.gov/swmp for both a strikeout and clean version of the amendments

STAFF REPORT

REQUEST

The Planning Commission's role in the review of the Solid Waste Management Plan (SWMP) is to determine whether the proposed amendment, SWMP 15-01, is consistent with the County Comprehensive Plan.

BACKGROUND

The attached memo and Amendment Summary from DUSWM Director Kevin Demosky describes the proposed updates and amendments to the current SWMP, which was last amended in 2014. This amendment will address the following items:

This amendment to Frederick County's Ten Year (1998 – 2017) Solid Waste Management Plan (SWMP) is the result of changes required by the MDE as stated in their letter from May 2014 and a Bill addressing recycling that was passed by the Maryland General Assembly in the 2014 legislative session that required SWMP amendments. Environment Article, §9-1712, Annotated Code of Maryland, requires special events organizers to provide for recycling at special events that meet the following three criteria:

- a. Includes temporary or periodic use of a public street, publicly owned site or facility, or public park;
- b. Serves food or drink; and
- c. Is expected to have 200 or more persons in attendance.

The 2010 County Comprehensive Plan includes a *Public Utilities Element* on page 07-23, which references Solid Waste Management including several policies.

FINDING OF CONSISTENCY REVIEW

State Code and Guidelines

The Land Use Article of the Annotated Code of Maryland provides general requirements with regards to a finding of consistency with a comprehensive plan. Section 1-303 *Consistency – General requirement* of the Land Use Article further defines consistency with a comprehensive plan to mean “ an action taken that will further, and not be contrary to the following items in the plan:

- 1) Policies;
- 2) Timing of the implementation of the plan;
- 3) Timing of development;
- 4) Timing of rezoning;
- 5) Development patterns;
- 6) Land uses; and
- 7) Densities or intensities

The Maryland Department of Planning in its Models and Guidelines document titled: *'Achieving Consistency under the Planning Act'* also provides guidance on determining consistency with a comprehensive plan. It states:

“...land use regulations and decisions should agree with, and implement what the Plan recommends and advocates. A consistent regulation or decision may show clear support for the Plan. It may also be neutral – but it should never undermine the Plan.”

Findings of Consistency with the Comprehensive Plan

Staff would find that the proposed amendment is consistent with Solid Waste Management policy PU-P-11 which reads:

Integrate solid waste management systems and programs to ensure reliable, safe and cost effective disposal and recycling services for Frederick County residents.

RECOMMENDATION

Staff recommends that the Frederick County Planning Commission find:

1. That the updates and amendments, SWMP 15-01, to the Solid Waste Management Plan are consistent with the Frederick County Comprehensive Plan.

PLANNING COMMISSION ACTION

MOTION TO FIND CONSISTENT

I move to find that the updates and amendments, SWMP 15-01, to the Solid Waste Management Plan **are consistent** with the Frederick County Comprehensive Plan.

MOTION TO FIND INCONSISTENT

I move to find that the updates and amendments, SWMP 15-01, to the Solid Waste Management Plan **are inconsistent** with the Frederick County Comprehensive Plan.



FREDERICK COUNTY GOVERNMENT

Jan H. Gardner
County Executive

DIVISION OF UTILITIES & SOLID WASTE MANAGEMENT

Department of Solid Waste Management

Kevin L. Demosky, Director
Phillip S. Harris, Superintendent

Solid Waste Management Plan (SWMP) Amendment Summary

This amendment to Frederick County's Ten Year (1998 – 2017) Solid Waste Management Plan (SWMP) is the result of changes required by the MDE as stated in their letter from May 2014 and a Bill addressing recycling that was passed by the Maryland General Assembly in the 2014 legislative session that required SWMP amendments.

Environment Article, §9-1712, Annotated Code of Maryland, requires special events organizers to provide for recycling at special events that meet the following three criteria:

- a. Includes temporary or periodic use of a public street, publicly owned site or facility, or public park;
- b. Serves food or drink; and
- c. Is expected to have 200 or more persons in attendance.

The County has identified public sites within the County that host or may host special events meeting the above criteria. In addition to the sites listed individually, special events taking place on any local, State, or Federally-owned streets are also included in the Special Events Recycling Program (SERP).

The SERP must include collection of at least plastic containers, metal containers, glass containers, and paper. The special events organizer must assess the availability of food scraps recycling services for the event. If services are deemed reasonably available, the special events organizer must provide for food scraps recycling.

The special event organizer is responsible for monitoring the implementation of recycling at the special event. Special event organizers must oversee placement and labeling of recycling receptacles and collection and recycling of recyclables. Performance of any recycling contractor engaged for compliance with the SERP must be monitored by the special event organizer. The special event organizer must promptly take action to correct any deficiencies in the contractor's performance.

The revised recycling plan may require special event organizers to submit reports detailing the recycling and waste totals removed from the special event to the county. MDE recommends that Maryland counties and Baltimore City advertise the requirements outlined in the Plan to special event organizers and the general public. MDE recommends that all Maryland counties and Baltimore City develop the Plan amendment and submit it to MDE for its review and approval by **March 1, 2015**. Enclosed is a copy of Senate Bill 781: Environment-Recycling-Special Events, Chapter 338, Acts of 2014, for your information.

An enforcement unit, officer, or official of a county, a municipality, or any other local government may conduct inspections of a special event location to enforce the law. A person that violates the recycling or reporting requirements of the law is subject to a civil penalty not exceeding \$50 for each day on which the violation occurs. Any penalties collected under the law shall be paid to the county, municipality, or other local government that brought the enforcement action.

Please be advised that Sections 9-503(c) and (d) of the Environment Article, Annotated Code of Maryland, and Code of Maryland Regulations 26.03.03.05C specify required public hearing procedures for amendments to the Solid Waste Management Plans. There have been cases where amendments to the plans were invalidated because of failure to follow the public hearing process. The Department can not authorize a county or Baltimore City to violate any State law or regulation, or local law, policy, or procedure when adopting plan revisions.

Thank you for your cooperation. If you have questions or need further clarifications, please contact Mr. Tariq Masood, Regulatory and Compliance Engineer, at (410)-537-3326 or tariq.masood@maryland.gov, or you may contact me, at (410) 537-4142 or dave.mrgich@maryland.gov.

Sincerely,



David Mrgich, Chief
Waste Diversion Division

cc: Tariq Masood
Horacio Tablada, Director, Land Management Administration

Enclosure