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
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:

- Includes temporary or periodic use of a public street, publicly owned site or facility, or public park;
- Serves food or drink; and
- 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.
MEMORANDUM

TO: Gary Hessong, Acting Division Director, Community Development Division

THRU: Kevin L. Demosky, Director, Division of Utilities and Solid Waste Management (DUSWM)

FROM: Phil Harris, Superintendent, Department of Solid Waste Management (DSWM)

DATE: January 27, 2015

RE: Solid Waste Management Plan (SWMP) Update

In an effort to reduce printing, binding and labor costs, the various amendments and updates to Frederick County’s Ten Year (1998 – 2017) Solid Waste Management Plan (SWMP) can be viewed at www.frederickcountymd.gov/SWMP. Two (2) PDF files (versions) are provided that reflect the proposed changes. One is a red-lined format, while the other is a "clean" version showing the proposed changes.

Under the Code of Maryland Regulations (COMAR), Section 26.03.03, each county in Maryland must “maintain a current, comprehensive, solid waste plan, which covers at the least the succeeding 10-year period.” Additionally, each plan must be reviewed every three (3) years with a progress report regarding the status of the County’s SWMP submitted at least every two years as provided in the Environment Article of the Annotated Code of Maryland, Section 9-503.

This document updates and amends the Frederick County SWMP, which was last amended by Frederick County on May 8, 2014, approved by the Maryland Department of the Environment (“MDE”) on July 14, 2014. The updates included in the draft on the website listed above are a result of changes required by the MDE as stated in their letter from May 2014 as a result of a Bill addressing recycling that was passed by the Maryland General Assembly in the 2014 legislative session that required SWMP updates. These changes are noted in the margin Chapter Five (page 5-21 through 5-24) of the SWMP as “SB781” (Senate Bill 781). The Bill addressed recycling at special events meeting certain criteria and required the County to update its SWMP by October 1, 2015.

The updates were reviewed with the County’s Solid Waste Advisory Committee (SWAC) and approved on December 3, 2014 by all members in attendance at the monthly meeting. The SWMP amendments reflected in this revision effort were relatively rigid amendments based on State requirements.

1 Note: Please disregard formatting related issues (including the Table of Contents), as many are publishing, i.e. aesthetic presentation, that will correct themselves or be corrected when the final changes are made to the document.
The DUSWM believes the updates to the SWMP are consistent with the Countywide Comprehensive Plan. A finding of consistency will allow the revised SWMP to continue the approval process for the County Council public hearing to be scheduled for a future date. If you would like to receive the files on a CD or you or your staff have any questions, please do not hesitate to contact me. Please schedule a public hearing with the Planning Commission at your earliest convenience. A letter was sent on January 27, 2015 to all municipality planning commissions to open the 30 day concurrent comment period on the proposed amendments.

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.
May 16, 2014

Ms. Lori Finafrock, Recycling Program Manager
Frederick County Department of Solid Waste
9031 Reichs Ford Road
Frederick, MD 21704

Reference: Environment - Recycling - Special Events - Senate Bill 781

Dear Ms. Finafrock:

In the 2014 legislative session, the Maryland General Assembly passed Senate Bill 781: Environment-Recycling-Special Events, Chapter 338, Acts of 2014, which amends Sections 9-1703 (b) and (g) and adds Section 9-1712 of the Environment Article, Annotated Code of Maryland. The law requires Maryland counties and Baltimore City to address in their recycling plans the collection and recycling of recyclable materials from special events. A county must revise its recycling plan in accordance with the provisions of Section 9-505 of the Environment Article, Annotated Code of Maryland, to include, special event recycling by October 1, 2015. The law is effective October 1, 2014.

The law also requires special event organizers to provide for recycling in accordance with the county's Solid Waste Management Plan (the “Plan”). Special events subject to the law are those that:

a. Include temporary or periodic use of a public street, publicly owned site or facility, or public park;
b. Serve food or drinks; and
c. Are expected to have 200 or more persons in attendance.

Special events planned after a county’s Plan has been updated and approved by the Maryland Department of the Environment (MDE) are subject to the recycling requirement.

The revised recycling plan must specify that in addition to any other conditions of a county approval for a special event, the event organizer must provide for collection and recycling of recyclable materials, as required in Section 9-1712 of the Environment Article. At a minimum, the plan must require recycling of glass, metal, and plastic containers, as well as paper. Food scraps should be recycled to the extent feasible. Due to potential limitations in the current availability of food scraps recycling services, MDE will approve a plan that, at a minimum, provides for a consideration of the feasibility of food scraps recycling by the event organizer and ensures food scraps are recycled where determined feasible.
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 cannot 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