

**DPS****Montgomery County
Department of Permitting Services**

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**Montgomery County DPS Administrative Stormwater Management Waiver Policy**

In July 2010, Montgomery County modified its code to incorporate Environmental Site Design (ESD) standards as required by the 2007 Stormwater Management Act. As a part of this code revision, Section 19-21A was added to include a stormwater management grandfathering provision to allow certain developments to apply for and receive an Administrative Waiver of the new stormwater requirements. Montgomery County DPS issued Administrative Waivers to approximately 90 stormwater management concepts, of which approximately 30% have now expired because associated sediment control permits were not issued before May 4, 2013, the required date specified in the code. Approximately 60 Administrative Waivers resulted in sediment control permit issuance by the deadline. It should be noted that multiple sediment control permits may have been issued under a single stormwater management concept.

According to the provisions of the County Code and State law, all construction authorized by an Administrative Waiver must be completed by May 4, 2017. In an effort to clarify the meaning of “complete” in this context, Montgomery County DPS has created this policy guidance document.

A development satisfies a stormwater management Administrative Waiver if the following requirements are met:

- All required stormwater management practices and structures, including all conveyance infrastructure, are installed before May 4, 2017. If complete as-built plans cannot be submitted before May 4, 2017, a Professional Engineer, licensed in the State of Maryland, may perform a third party visual inspection and certify, on behalf of the applicant, that all relevant stormwater management items have been installed. Stormwater management practices and structures that have been installed and are serving as sediment control devices will be considered to be “complete” under this policy. Complete as-built plans for projects certified by a Professional Engineer must be submitted to DPS for review and approval before July 1, 2017, otherwise a civil citation will be issued.

If a development received an Administrative Waiver, but all or part of the development will not be “complete” as outlined above, before May 4, 2017, then:

- Using the following procedure, a revised stormwater management concept must be submitted for the remainder of the development before May 4, 2017, and the stormwater management concept must meet the code requirements that exist at the time of submission. Once the concept revision has been approved, the sediment control plans must be submitted for approval if required as a condition of concept. After DPS approves the revised stormwater management concept, and issues the revised sediment control permit when required, the development will no longer be subject to the administrative waiver.

- Concept revisions shall meet current stormwater management requirements for all parts of the project for which complete as-built plans have not been approved by DPS. Stormwater elements must be evaluated to meet current ESD treatment volume requirements to the maximum extent practicable. For the purposes of this policy as it relates to grandfathered provisions, maximum extent practicable includes the evaluation of vested developments. Vesting includes not only active construction but also insuring that any revised stormwater management measures do not create discrepancies with approved Preliminary Plans and Site Plans; do not alter in any way existing recorded stormwater management easements and covenants or create the need for new maintenance easements and covenants; do not contradict existing private contract agreements between developers, builders, and buyers that specify who is responsible for providing required stormwater management or where stormwater is to be located; that do not contradict requirements in existing homeowners association by-laws; do not affect or require the revision to approved storm drain or grade establishment plans and permits; do not affect or require the revision to existing and proposed utility construction; and, *anything else, as appropriate*. Treatment volume in previously approved stormwater management facilities and practices may be credited toward the required ESD volume when incorporation of additional ESD practices is not practicable due to existing site constraints. The design of proposed ESD measures such as Dry Wells and other on-lot measures must meet current standards.
- Developments that received an Administrative Waiver, but are not complete as outlined above, and did not submit a revised stormwater management concept and sediment control plans before May 4, 2017, in accordance with this document, will receive a Stop Work Order and will be required to cease all construction until the requirements in the Code have been met, even if the existing sediment control permit has an expiration date after May 4, 2017.


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