



Land Development Services
Technical Bulletin

Subject: Expiration of Grandfathering Status Under the Stormwater Management Ordinance

Date: March 27, 2019

No.: 19-05

Summary: Projects that qualify under the grandfathering provision in Stormwater Management Ordinance (SWMO) §124-1-12, Paragraphs A or B, that do not commence land-disturbing activity on or before June 30, 2019, will need to be redesigned to meet the technical criteria in Article 4 of the SWMO.

Effective Date: Immediately

Background:

Private development projects that are “grandfathered” under paragraph A of [SWMO §124-1-12](#) are those that have a currently valid and qualifying plan (e.g., Preliminary Subdivision Plat or a Rezoning/Special Exception/Special Permit), which:

- Received approval on or before June 30, 2012.
- Includes a layout showing the stormwater management facilities and associated necessary computations that demonstrate compliance with the stormwater requirements
- Has not been subsequently amended in a manner that will increase pollution or runoff.
- Did not commence construction or obtain initial Construction General Permit (CGP) coverage prior to July 1, 2014.

Public development projects that are grandfathered under paragraph B of SWMO §124-1-12 are those for which there has been an obligation of local, state or federal funding prior to July 1, 2012, and have not commenced construction or obtained initial CGP coverage prior to July 1, 2014. See the grandfathering provisions in [SWMO §124-1-12](#) for more information.

For public and private projects, the Stormwater Management Ordinance (SWMO) [SWMO §124-1-12](#), Paragraph C, specifies that land-disturbing activities grandfathered under SWMO §124-1-12.A or B shall remain subject to the technical criteria of SWMO Article 5 until June 30, 2019. After that time, portions of the project not under construction will become subject to any new technical criteria adopted by the State Water Control Board (SWCB). This provision is mandated by Virginia Stormwater Management Regulation [9VAC25-870-48.C](#).

Grandfathered projects, including subsequent phases of a multiple phase project, that have not obtained all required approvals and permits and commenced construction by June 30, 2019, will lose the grandfathered status and will need to be redesigned to comply with the technical criteria in Article 4 of the SWMO.

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Guidance List:

To assist you in determining if your plan meets the grandfathered status, see the enclosed guidance document (Table 1) titled, “*Updated Preliminary Determination of the Status of Plans under the Grandfathering Provisions of the Stormwater Management Ordinance.*” The guidance list at the end of this document shows the known or suspected major plans that may qualify under the grandfathering provision in SWMO §124-1-12.A, but where we cannot confirm that construction has begun.

Unfortunately, we cannot identify with certainty all projects that may qualify under the grandfathering provision and/or are in jeopardy of losing such status. For example, this list does not include minor plan types such as Infill Lot Grading Plans, Minor Site Plans, and Rough Grading Plans. Any plan that is subject to the requirements of the SWMO and qualifies as a grandfathered plan is subject to the expiration, even if Construction General Permit coverage is not required.

Applicants interested in their plan’s grandfathering status should review the list and verify the plan’s status based on code requirements. If an applicant has reason to believe that the designation of a plan on the list is not correct or a plan does not appear on the list, then the applicant may submit a Stormwater Ordinance Determination (SWOD) request for the County to review a specific plan and issue a written determination. Please refer to Technical Bulletin [TB 14-06](#), dated March 24, 2014, for additional information regarding requesting an SWOD.

Projects Not Affected at This Time:

Please keep in mind that the June 30, 2019, expiration does **not** apply to plans that qualify under the Time Limits provision, grandfathered under SWMO §124-1-12.D, Department of Environmental Quality (DEQ) Guidance Memo 14-2014, or Virginia Code §15.2-2209.1.

- “Time Limits” (Time Limits on Applicability of Approved Design Criteria) provisions specified in [SWMO §124-1-11.A](#) apply to those projects that obtained initial coverage under the General Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities (CGP) or commenced construction on or before June 30, 2014. Qualifying “Time Limits” projects may remain subject to the old technical criteria until June 30, 2024, provided continuous coverage under the CGP is maintained. After that time, portions of the project not under construction shall become subject to technical criteria in effect at the time (i.e., must be redesigned to meet the new criteria in effect at that time).
- SWMO §124-1-12.D applies to those projects where government bonding or public debt financing had been issued prior to July 1, 2012. Such governmental projects remain subject to the old technical criteria.
- The DEQ issued [Guidance Memo 14-2014](#), dated August 25, 2014, which provides that qualifying new construction activities that were served by an existing on-site or off-site stormwater management facility, including a regional (watershed wide) facility, that were designed and implemented under the old technical criteria may remain subject to the old technical criteria until June 30, 2024.

- Virginia Code [§ 15.2-2209.1](#) extends the validity of certain valid and outstanding plans and plats until July 1, 2020.

Nothing in this Bulletin precludes an applicant from designing to a more stringent standard if they choose to do so or are committed to do so by a proffer.

For additional assistance or if you have any questions, please contact the Site Code Research and Development Branch, at **703-324-5175, TTY 711**.

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Table 1. *Updated Preliminary Determination of the Status of Plans under the Grandfathering Provisions of the Stormwater Management Ordinance*

Project Name	Tax Map Number	Plan Number/ Rezoning Case
11717 Lee Highway	056-2 ((01) 0066	RZ 2008-SP-012
12219 Braddock Road Proposed Church	067-1 ((01)) 0057, 0058	SP 2005-SP-012
3068 West Ox Road	035-2 ((01)) 0038	RZ 2007-SU-005
9400 GEORGETOWN PIKE (DR)	13-2 ((1)) 7	025155-PL -001-2
Accotink Dam Stream Crossing	079-1 ((01)) 0003	9570-PI-001-2
Arlington Boulevard Consolidation	049-3 ((01)) 0135 049-3 ((09)) 0011A	PCA 2004-PR-003
Bechara's Property Lot 1, NR Clarke Station	028-3 ((01)) 0001	3186-SD-001-2
Boone Boulevard Tycon II and II	039-1 ((06)) 0069	SE 2007-PR-014
Boone Boulevard Tycon II and III	039-1 ((06)) B1, 0069A	PCA -C -597-04
BUSH HILL PRESBYTERIAN CHURCH (LE)	82-3 ((2)) (1) A; 82-3 ((3)) (B) 8	SPA 99-L -024
Capital Worship Center Phase 1	065-3 ((01)) 0071B, 0072, 0073, 0076B, 0076C	1723-SWOD-001-1
CARRICO CORNERS OFFICE CONDOMINIUM	71-2 ((10)) 1, 2, 11 & 12	RZ 2005-MA-002
CENTERPOINTE CHURCH AT FAIR OAKS (aka FAIRFAX ASSEMBLY OF GOD)	46-3 ((1)) 45-50	RZ 2005-SP-033

Project Name	Tax Map Number	Plan Number/ Rezoning Case
CFC Woodland Park, Bldg 3 (Lakeside)	016-3 ((01)) 0029A	5518-SP-040-2
Cornejo Properties	071-3 ((01)) 0024A, 071-4 ((01)) 0020	SE 2009-MA-015
COSTCO FAIRFAX WHSE EXPANSION - 4725 WEST OX RD (SP)	56-1 ((1)) 5C 56-3 ((1)) 5C & 5D	006552-SP -007-2
Country School	66-1 ((03)) 0057 & 0058	9280-SP-001-2
CURTISS PROPERTY	81-4 ((1)) 37-39	RZ 2005-LE-021
DAIL PARK LOT 3 AND MOUNT HEBRON PARK LOT 6 (LE)	81-1 ((2)) 6C and 81-1 ((3)) 3	002712-SD -001-3
DANBURY FOREST	79-1 ((1)) 1	FDPA -C -194
Dranesville United Methodist Church	066-4 ((01)) 0066B, 006-4 ((01)) 0070A, 006-4 ((14)) A	SPA 83-D -022-04
DULLES BUSINESS PARK HILTON HOTEL	34-4 ((12)) 3A2 , 3A3, 3A4 & 3A5	SE 2004-SU-025
Dulles Executive Plaza	016-3 ((01)) 0004N1, 0031A1	RZ 2006-HM-019
Exxon-Mobil Corporation 1818 Wiehle Avenue	017-4 ((05)) 0004	SEA 76-C -152-04
Fair Lakes – Land Bay VI-A	045-4 ((01)) 0025E1, 0025, E2	CDPA 82P-069-01- 01
FAIRFAX FARMS, RESUBD OF LOT 25 (PR)	46-4 ((2)) 25	008672-PL -004-4
Fairfax Memorial Cemetery	069-1 ((01)) 0001, 069-1 ((01)) 0012, 069-1 ((01)) 0012A	SPA 81-A -022-09
Fairfax Town Center Phase 1	046-3 ((01)) 0024C	8454-SWOD-001-3
FD- Circle Towers	048-3 ((01)) 0053, 048-4 ((01)) 0003, 048-4 ((01)) 0003A1, 048-3 ((03)) 0003B, 048-4 ((01)) 0003B1	FDPA -B -993-02
Flint Hill Lower School (East Campus)	047-2 ((01)) 0036A, 0037, 0038, 0052A	SEA 84-P -105-03
FLINT HILL SCHOOL	47-3 ((1)) 17A, 18, 19, 20, 20A, 21A, 22, 22A, 23, 24, 34A	SEA 99-P -046
FLORIS UNITED METHODIST CHURCH (Phase III)	24-2 ((1)) 8; 25-1 ((1)) 2A	SPA 01-H -011

Project Name	Tax Map Number	Plan Number/ Rezoning Case
Foley/Walker Road Office	12-4 ((01)) 0063	5860-002-3
Franconia Hills, Section 2, Lot 10	081-3 ((05)) 0010	RZ 2006-LE-010
FULL GOSPEL FIRST CHURCH OF WASHINGTON	2-1 ((1)) 59, 59B, 59C & 59D	SPA 89-M -041-02
GESHER JEWISH DAY SCHOOL (Part)	56-4 ((1)) 19B; 56-4 ((3)) 1	SEA 01-S -028
Global Mission Village	046-3 ((01)) 0015A1, 046-3 ((01)) 0015A2, 046-3 ((01)) 0015A3	PCA 83-C -021-02
Good Shepherd Catholic Church	110-2 ((1)) 22A	SPA 82-V -035-03
GRUM WOODS SUBDIVISION (SP)	90-3 ((1)) 2	007645-SD -001-7
INOVA HEALTH CARE SERVICES (FAIR OAKS HOSPITAL)	45-2 ((1)) 41B1, 41L, 41L3, 41L4 & 41L5; 45-2 ((2)) 38, 39A, 39B, 46A1 & 51A1	SEA 84-C -076-09 PCA 2000-SU-032-03 RZ 2011-SU-004
Interstate Plaza	080-2 ((09)) 0018B	6367-SWOD-001-1
Islamic Saudi Academy	068-3 ((01)) 0061, 0062, 0063, 0064	SE 2008-SP-025
J. K. Investments, Inc. Property	109-2 ((01)) 0013A	SEA 85-L -137 RZ 2008-MV-007
Jerusalem Baptist Church	068-3 ((01)) 0052, 0054, 0055A	SPA 73-S -113
LAUREL HILL CENTRAL GREEN (MV)	107-3 ((1)) 19	001183-MSP -007-1
Lee Chapel Road	088-1 ((01)) 0028	PCA 2004-SP-036
LINCOLN PARK 4 BLOCK 8 (SU)	24-4 ((1)) 6B4	005810-SP -016-2.1 005810-SP -021-1
LITTLE DIFFICULT FARMS, ADDITION TO (SU)	36-2 ((7)) 6A, 7A, 8S,9S,10S & 11S; 36-2 ((14)) C1	009878-PL -001-1
Living Savior Lutheran Church	068-3 ((01)) 0050, 0050A	SPA 86-S -023-02
Loisdale Business Center Lee District	090-4 (01) 0003	PCA 80-L -004
Lorton Corner	108-3 ((01)) 0001A, 0006	9397-SWOD-001-1
Lot 1 - Section 2 Hideaway Park	048-2 ((17)) 0001	RZ 2006-PR-017
MAHEDERE SEBEHAT LEDETA LE - MARIAM EHTIOPIAN ORTH CHCH	72-1 ((1)) 64	004906-SP -002-2 SP 2010-MA-041
MONTICELLOW MEWS SEC 2 PHASE II (MA)	0812 01 0008	003759-SP-007-2
Mount Vernon Unitarian Church	093-3 ((01)) 0010B, 093-3 ((18)) A	SPA 82-V -069-03

Project Name	Tax Map Number	Plan Number/ Rezoning Case
MULFORD SCHOOL	64-2 ((3)) 22 & 23	SEA 2003-SU-001 SP 2005-SU-039
MUNSON HILL SUBDIVISION (MA)	61-2 ((1)) 5A & 5B	007385-PL -001-7
New life Christian Church	064-2 ((03)) 0021A	1768-SWOD-001-1
New Mount Zoar Church	074-1 ((01)) 0002	SP 2007-SU-125 006545-SP -001-2
PNC Bank at Amherst Avenue, Backlick Road, and Bland Street	080-4 ((01)) 0009	SE 2006-LE-012
PRCD - Fairway Apartments	017-2 ((18)) 0001, 017-2 ((19)) 0002	PRC -A -502-02
Property of James Hollingsworth	049-1 ((04)) 0016	RZ 2009-PR-022
RESIDENCES AT NORTH HILL (MV)	92-4 ((1)) 82A	005563-SP -001-3
RESTON PRESBYTERIAN CHURCH PH 1 EXPANSION (HM)	18-3 ((1)) 6	004772-SP -002-1 SPA 82-D -047-02
Riverside Gardens Recreation Center	102-3 ((01)) 0042A, 0043	SPA 71-V -216-02
Shadow Lawn, Lot 11	059-3 ((22)) 0011A & 0011B	6005-SWOD-001-1
Spring Hill Demonstration Project Part B	29-3 ((1)) 60C	RZ 2010-PR-014B
ST. PAUL'S LUTHERAN CHURCH	40-3 ((1)) 7A & 9	SPA 93-P -046-02
THE ELLIPSE AT WESTFIELDS	34-3 ((14)) 4	SE 2010-SU-013
THE ELLIPSE AT WESTFIELDS	34-3 ((14)) 2	SE 2010-SU-012
The Potomac School	031-1 ((01)) 0005, 0007, 0008, 0010A, 0010B, 0010C, 0012A	SEA 85-D -097-05
Towers Crescent	039-2 ((29)) B, 0001A1, 0001E, 0001F	RZ 2006-PR-028
United Wesleyan Church	081-4 ((01)) 0091A, 0094A	SP 2007-LE-029
VETERANS OF FOREIGN WARS OF THE UNITED STATES (LE)	99-2 ((1)) 44-49	025066-SP -001-3 SE 2007-LE-030
WOOLFENDEN PROPERTY LOTS 7A, 7B AND 8A (MA)	60-3 ((13)) 7 & 8	001318-SD -001-2