



**DEPARTMENT OF
BUILDING AND DEVELOPMENT
STAFF REPORT**

Date of Hearing: January 21, 2013

PLANNING COMMISSION PUBLIC HEARING

SUBJECT: DOAM-2013-0002, FSM and Chapter 1096 Codified Ordinance Amendments

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the Pleasure of the Board

STAFF CONTACTS: Jimmy Edmonds, Dept. of Building and Development
Mike Seigfried, Dept. of Building and Development
Randy Williford, Dept. of General Services
Richard Pezzullo, Dept. of General Services

PURPOSE: The purpose of DOAM-2013-0002 is to amend portions of Chapters 1 and 5 of the Loudoun County Facilities Standards Manual (FSM) and Chapter 1096 of the Codified Ordinance, as directed in a Resolution of Intent to Amend adopted by the Board of Supervisors on October 2, 2013.

RECOMMENDATION:

The FSM Public Review Committee (PRC) and Staff are in agreement on these amendments (DOAM-2013-0002). If the Planning Commission would like to discuss the amendments in detail, they should be referred to a Work Session.

The Planning Commission is not required to review and comment on amendments to the Codified Ordinances. However, given that the Planning Commission is required to review the proposed text amendments to the FSM, the Planning Commission is being provided with the proposed text amendments to the Codified Ordinances for reference.

CONTENTS OF THIS STAFF REPORT

Section	Page	Section	Page
Motions	2	Applicability	5
Executive Summary	2-3	Summary Agency Referrals	5
Background	3-4	Draft Text	5
Summary of Changes	4	Attachments	Attachment page # 1-89
Issues	5		

SUGGESTED MOTIONS:

1. I move that the Planning Commission forward DOAM-2013-0002, FSM and Chapter 1096 Amendments, to a Work Session for further discussion.

OR

2. I move that the Planning Commission forward DOAM 2013-0002, FSM and Chapter 1096 Amendments, as provided in Attachments 6 through 8 of the Staff Report for the January 21, 2013 Planning Commission Public Hearing to the Board of Supervisors, with a recommendation of approval.

OR

3. I move an alternate motion.

I. EXECUTIVE SUMMARY

On October 2, 2013, the Board of Supervisors (“Board”) adopted a Resolution of Intent to Amend (Attachment #1) the Facilities Standards Manual and Codified Ordinances, as necessary, to fully establish a Virginia Stormwater Management Program (VSMP) as required by the Virginia Stormwater Management Act, the Virginia Stormwater Management Program Permit Regulations, and Guidance provided by the Virginia Department of Conservation and Recreation and Virginia Department of Environmental Quality, in its entirety.

To bring the Facilities Standards Manual and Chapter 1096 into conformance with the amended VSMP Permit Regulations by May 15, 2014, as mandated by the State, major amendments to Chapter 5 (Water Resource Management) of the FSM, minor amendments to Chapter 1 (Authority) of the FSM, and major amendments to Chapter 1096 (Stormwater Management of the Codified Ordinance) are required and have been completed in draft form. Such amendments in the FSM and Chapter 1096 include the following:

- Language was added to Chapter 1096 to establish that the County shall administer the VSMP permit process for all land development projects that will disturb one (1) acre or more of land;
- More complex and more stringent State-mandated performance standards and technical criteria for quality and quantity control of stormwater runoff from development sites are provided in Chapter 5 of the FSM and Chapter 1096;
- Language was added to Chapter 1096 to establish that the County shall perform site inspections to verify the owner’s compliance with a Pollution Prevention Plan,

which addresses construction site housekeeping (trash and debris, chemical storage, fueling operations, etc.);

- Language was added to Chapter 1096 to establish that the County shall inspect Stormwater Water Management (SWM) facilities during construction to insure their proper construction and performance.
- Language was added in Chapter 1 of the FSM in order to clarify the State's "grandfathering" of projects approved prior to the implementation of the new technical criteria for quality and quantity control of stormwater runoff.
- The County will have the responsibility for implementing the VSMP for all incorporated towns that are not subject to Municipal Separate Storm Sewer System (MS-4) provisions (Purcellville, Lovettsville, Middleburg, Hamilton, Hillsboro, and Round Hill). To date, all of those incorporated towns have chosen not to establish their own programs. Since Leesburg is designated as an MS-4 jurisdiction, it will be responsible for implementing all aspects of the local VSMP. Memorandums of Understanding (MOUs) will need to be executed with the non-MS-4 towns to establish the extent of program administration, project inspection, stormwater infrastructure maintenance, and enforcement that will be the responsibility of County staff. This effort has been incorporated into the project timeline and will be part of the ordinance review discussions as those come forward to the Board of Supervisors after Planning Commission review and recommendation.

A timetable for adoption of the draft amendments is provided as Attachment #2.

II. BACKGROUND

On February 1, 2012, the Board of Supervisors adopted an Intent to Amend the Facilities Standards Manual in its entirety. The comprehensive, chapter-by-chapter review of the FSM was split into three phases. The Board adopted Phase 1 amendments to the FSM on October 3, 2012 and Phase 2 amendments on May 8, 2013. The PRC is currently working on Phase 3, which includes amendments to Chapters 5, 7, and 8.

In 8 meetings from February 2013 to September 2013, the PRC and Staff worked together on the draft Chapter 5 Stormwater Management Amendments related to Phase 3. Given that the mandatory amendments are tracking ahead of the Phase 3 amendments, the PRC elected to consolidate all of the Chapter 5 stormwater amendments into this package to avoid multiple updates.

Staff amended the Phase 3 draft of Chapter 5 of the FSM and prepared draft amendments to Chapter 1096 Codified Ordinance to bring them into conformance the State Regulations and provided them in conjunction with the October 2, 2013 Intent to

Amend. The PRC and Staff worked together in 9 meetings from October 2013 to December 2013 to finalize the proposed amendments and to draft amendments to Chapter 1 of the FSM in regard to grandfathering. The PRC also provided an opportunity for public comment at the beginning of each meeting.

III. SUMMARY OF CHANGES:

The draft text of the Chapters 1 and 5 FSM Amendments and the Chapter 1096 Amendments is provided in Attachments 6 through 8. Strikethrough language (to be deleted) is in red, while new text is blue. As previously noted, the amendments to Chapter 1096 are included primarily for reference. A significant number of the Phase 3 amendments to the FSM involve streamlining and re-organizing information, thereby making the document more easy to use. A summary of the specific changes to Chapters 1 and 5 of the FSM which are State-mandated and will result in significant changes to the current County SWM Program are provided below:

FSM Section	Amendment Details
1.100.A	Text is added to clarify the qualifications necessary for a land-disturbing activity to be “grandfathered” so that it will not have to meet the newly amended, State-mandated technical criteria – but rather the previous State requirements. The amendments describe the types of previously approved applications that qualify as well as the water quality and quantity criteria that must be satisfied to allow grandfathering.
5.230	The requirement for using the State’s new Best Management Practice designs to meet the new SWM technical criteria is added. The designs are located on a State-maintained website.
5.230.A.2	The State-mandated technical criteria for water quantity are provided. New, separate requirements exist for stormwater runoff from projects that will discharge to man-made channels, restored natural systems such as stream or wetland banks, or natural streams.
5.230.B	The State-mandated technical criteria for water quality are added. The new requirements reduce the threshold for the amount of pollutant loading (phosphorus) allowed to enter a conveyance system from a development site (vs. the current threshold) and also consider the entire development site in the determination of the pollutant load (vs. the current criteria which includes only the impervious site area).

IV. ISSUES

The PRC and staff are in agreement regarding the FSM and Chapter 1096 Amendments.

The State Regulations identify the circumstances under which projects will be grandfathered from meeting the new technical criteria. The State Water Control Board recently amended the grandfathering provisions of the State Regulations on December 17, 2013. The PRC discussed the amendments during the December 18, 2013 PRC meeting. Both the PRC and Staff have agreed that further evaluation of the proposed amendments currently incorporated into Section 1.100, General, in Chapter 1, may be necessary to clarify the provisions for “grandfathering” of land development applications in Loudoun County. Continued discussion of grandfathering is scheduled for the January 15, 2014 PRC meeting. Any substantive changes to Chapter 1 will be presented at the Public Hearing on January 21, 2013.

V. APPLICABILITY

DOAM-2013-0002 is applicable Countywide to land development applications submitted in accordance with the Loudoun County Zoning Ordinance, the Land Subdivision and Development Ordinance, and the Codified Ordinances of Loudoun County.

VI. AGENCY REFERRALS

The FSM and Chapter 1096 Amendments were distributed for agency referral on November 12, 2013, with a due date of November 19, 2013 for comments. Staff has received responses from the Department of Parks, Recreation, and Community Services (PRCS) (no comments), the Department of Transportation and Capital Infrastructure (TCI) (no comments), the Engineering Division of the Department of Building and Development (B&D) (Attachment #3), Loudoun County Public Schools (LCPS) (Attachment #4), the Department of Fire, Rescue, and Emergency Management (no comments), and the Department of Planning (Attachment #5). On November 20, 2013, the PRC addressed the Engineering Division’s comments and the comments from LCPS. The comments from the Department of Planning were addressed at the PRC meeting on December 18, 2013 as the PRC finalized the FSM and Chapter 1096 Amendments.

VIII. DRAFT TEXT

Draft text for FSM Chapters 1 and 5 and Chapter 1096 of the Codified Ordinances is provided, by Chapter, as Attachments 6 through 8. The amendments were finalized by the PRC during the December 18, 2013 PRC meeting, with the exception of grandfathering, which is scheduled for additional discussion during the January 15, 2014 PRC meeting.

IX. ATTACHMENTS		
Attachment		Attach page #
1	October 2, 2013 Intent to Amend	1-2
2	Stormwater Management Program Update Timetable	3
3	Division of Engineering [B&D] Response	4
4	LCPS Response	5-6
5	Planning Department Response	7-8
6	FSM Chapter 1 (Draft)	9-14
7	FSM Chapter 5 (Draft)	15-62
8	Chapter 1096 of the Codified Ordinance (Draft)	63-89

*This Staff Report with attachments (file name 01-21-14 PCPH STF RPT.PDF) can be viewed online on the Loudoun Online Land Applications System (LOLA) at www.loudoun.gov. Paper copies are also available in the Department of Planning and in the Department of Building and Development, Government Center, 1 Harrison Street, S.E., 2nd Floor, Leesburg, Virginia.