



**DEPARTMENT OF COMMUNITY PLANNING & BUILDING
INTEROFFICE MEMORANDUM**

TO: Board of County Commissioners & Planning Commission
VIA: Terry L. Shannon, County Administrator *TS*
Thomas Barnett, Director *TB*
Yolanda Hipski, Planning Commission Administrator
FROM: Mary Beth Cook, Deputy Director *MC*
Joseph Hawxhurst, Division Chief of Inspections & Permits *JH*
DATE: October 21, 2013
SUBJECT: October 29, 2013 Joint Public Hearing
Proposed Text Amendments to the Calvert County Zoning Ordinance

Background

Community Planning & Building Staff have been working on text amendments to Article 1 of the Zoning Ordinance to provide an exemption for Liquid Natural Gas Import or Export Facilities and to update the reference to the Land Use Article of the Maryland Annotated Code. Staff held a work session with the Board on August 20, 2013 and the Planning Commission on September 18, 2013 to discuss the proposed text amendments. At their September meeting, the Planning Commission directed staff to send the amendments out for agency comments and to schedule a joint public hearing with the Board. Agency comments have been received and a joint public hearing is scheduled for 7pm on Tuesday, October 29, 2013.

Discussion

Text Amendment Case No.13-09 - Proposed ordinance exemption for Liquid Natural Gas Import or Export Facility and updated references to the Land Use Article of the Maryland Annotated Code

Text amendments are proposed to Section 1-2.03 Exemption, Section 1-2.04 Statutory Authorization and Section 1-6.01 Procedures for Ordinance Amendments of the Calvert County Zoning Ordinance. The amendment to Section 1-2.03 proposes to provide an exemption for Liquid Natural Gas Import or Export Facilities from the requirements of the Ordinance. A definition of Liquid Natural Gas Import or Export Facility is being added to Article 12. Additionally, the amendments to 1-2.04 and 1-6.01 propose to delete reference to Article 66B and replace it with the current reference to the Land Use Article of the Maryland Annotated Code.

The exemption for the Liquid Natural Gas Import or Export Facility is also being proposed as an amendment to the International Building Code per attachment C.

Recommendation/Conclusion

Recommend that the Board and the Planning Commission hold the public hearing, close the record and take action to adopt the text amendments. Upon approval, the amendments shall be effective upon recordation, at least 10 days after closing the public hearing.

Attachments: Attachment A: Staff Report
Attachment B: Text Amendments for Case 13-09 to the Calvert County Zoning Ordinance
Attachment C: Amendment to the International Building Code
Attachment D: Agency Comments
Attachment E: Legal Notice

STAFF REPORT

TEXT AMENDMENT CASE NO. 13-09

PROPOSED AMENDMENTS TO ARTICLE 1: SCOPE OF REGULATIONS & ARTICLE 12:
DEFINITIONS OF THE CALVERT COUNTY ZONING ORDINANCE

**Re: Proposed ordinance exemption for Liquid Natural Gas Import or Export Facility
and updated references to the Land Use Article of the Maryland Annotated Code**

DATE PREPARED:

October 21, 2013

WORK SESSION DATES:

August 20, 2013 – Board of County Commissioners

September 18, 2013 – Planning Commission

PUBLIC HEARING DATE(S):

October 29, 2013 - Joint Public Hearing

AMENDMENTS PROPOSED BY:

Economic Development, County Attorney and Community Planning & Building

PURPOSE OF AMENDMENT:

Text amendments are proposed to Section 1-2.03 Exemption, Section 1-2.04 Statutory Authorization and Section 1-6.01 Procedures for Ordinance Amendments of the Calvert County Zoning Ordinance. The amendment to Section 1-2.03 proposes to provide an exemption for Liquid Natural Gas Import or Export Facilities from the requirements of the Ordinance. A definition of Liquid Natural Gas Import or Export Facility is being added to Article 12. Additionally, the amendments to 1-2.04 and 1-6.01 propose to delete reference to Article 66B and replace it with the current reference to the Land Use Article of the Maryland Annotated Code.

BACKGROUND/PROPOSED REGULATIONS:

The Zoning Ordinance currently provides an exemption for Qualified Commercial Power Generating Facilities due to the rigorous federal standards that must be met for these facilities. The text amendment proposes to expand the exemption to include Liquid Natural Gas Import or Export Facilities for the same reason.

An update to the Land Use Article of the Maryland Annotated Code became effective July 1, 2012. The Land Use Article became Section 4-203, therefore making the reference to Article 66B obsolete. A text amendment to Sections 1-2.04 and 1-6.01 is proposed to update the reference to the Land Use Article.

CONSISTENCY WITH COMPREHENSIVE PLAN:

Overview- Purpose of the Comprehensive Plan

Visions: *“We are building a strong local economy based on renewable resources, high technology, retirement, recreation, and tourism.”*

Chapter I: Land and Water: Land Use & Growth Management: Energy

Objectives: *“Use alternative energy sources when economically feasible and compatible with the environment.”*

Action I-90: *“Consider using solar energy, natural gas, and geothermal energy for County facilities and consider promoting their use as alternative sources of energy.”*

AGENCY COMMENTS

Responses were received from the following agencies:

- Calvert County Health Department, Division of Environmental Health – no comments on proposed text amendment.
- Department of Economic Development – agree with the proposed changes
- Economic Development Commission – agree with the proposed changes

CONCLUSION/STAFF RECOMMENDATIONS:

A joint public hearing with the Board of County Commissioners and the Planning Commission is scheduled for October 29, 2013.

**ARTICLE 1
SCOPE OF REGULATIONS**

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1-1 PURPOSE OF THIS ORDINANCE

The Calvert County Comprehensive Plan is a policy document that reflects present and future needs and concerns and gives direction in addressing those needs and concerns. One tool necessary to implement the Plan is a Zoning Ordinance designed to regulate land uses. Many aspects of land use can impact adjoining properties, neighborhoods, public facilities and overall County development. As mandated in the Comprehensive Plan, this Zoning Ordinance is adopted to regulate land uses as part of the effort to promote the health, safety and general welfare of Calvert County residents.

(07/27/06) **1-2 APPLICATION OF THIS ORDINANCE**

1-2.01 Territorial Limits

This Ordinance shall apply to all the lands, uses and improvements within the territorial limits of Calvert County, except for the incorporated territory of any municipality in the County, or except as modified by the Town Center Master Plans and Zoning Ordinances. Except as otherwise specified, the use of any property and the construction or alteration of any building or structure shall conform to the requirements of this Ordinance.

(09/21/10) 1-2.02 Determination of Rights Attendant to a Parcel

For the purpose of determining rights attendant to a parcel of land by virtue of the property being a discrete parcel, any determination as to the description of the parcel shall go back no further than the parcel as it existed in a deed under which the grantee in the deed held title to real property as of June 29, 1967.

(09/21/10) 1-2.03 Exemption

Notwithstanding any other provisions of this Ordinance to the contrary, this Ordinance does not apply to a Qualified Commercial Power Generating Facility **or a Liquid Natural Gas Import or Export Facility** as defined herein.

(12/14/11) 1-2.04

Statutory Authorization

The Maryland General Assembly, in the Land Use Article of the Maryland Annotated Code Article 66B, Section 4, General Development Regulations and Zoning (Annotated Code of Maryland), has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources.

1-3 SEPARABILITY

If a court of competent jurisdiction declares any Section, Subsection, sentence, clause or phrase of this Ordinance invalid or unconstitutional, such provision shall be deemed separate and such invalidity or unconstitutionality shall not affect the validity of the Ordinance in its entirety or of the remaining Sections or parts thereof.

1-4 ZONING OFFICER

(01/19/12) 1-4.01 Zoning Officer Responsibilities

There is a Zoning Officer for the County who shall be responsible for:

- A. giving approval for building permits,
- B. enforcement of the provisions of this Ordinance,
- C. determining whether a use or structure is legally non-conforming in accordance with Section 2-6 herein, and
- D. clarifying the intent of this Ordinance. Should there be a question on the application of a Section of the Ordinance; the Zoning Officer shall determine the proper application. Should the determination involve a legal interpretation of the Ordinance, an "official interpretation" shall be approved and signed by the Zoning Officer after consultation with the County Attorney. The Zoning Officer shall keep a volume containing all zoning interpretations. Annotations pertaining to the interpretation shall be added to the Zoning Ordinance at appropriate locations. Interpretations shall not become part of the Zoning Ordinance until they have been enacted pursuant to procedures set forth in Section 1-6. The following parties shall be notified within seven days following the interpretation: The Board of County Commissioners, Planning Commission, Department of Planning and Zoning, and the County Attorney.

1-5 SCHEDULE OF FEES, CHARGES & EXPENSES

The Board of County Commissioners shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, zoning occupancy certificates, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Department of Planning and Zoning and may be altered or amended only by action of the Board of County Commissioners.

1-6 ORDINANCE AMENDMENTS

1-6.01 Procedures for Ordinance Amendments

- A. Proposed Zoning Ordinance text amendments may be submitted to the Planning Commission by the Board of County Commissioners, any citizen, organization, governmental agency, or by the Planning Commission on its own initiative.
- B. Before any text amendment can be adopted, a duly advertised public hearing shall be held by the Planning Commission and the Board of County Commissioners. Such hearings may be held jointly or separately by the respective Commissions at the discretion of the Board of County Commissioners.
- C. The public hearing notice shall contain a summary of the proposed text amendment and the date, time and place of the public hearing and shall comply with the requirements of **Maryland Annotated Code, Land Use Article, Section 4-203** ~~Article 66B, Section 4.05(c) of the Annotated Code of Maryland~~, as amended from time to time.

1-7 ENFORCEMENT OF ORDINANCE

1-7.01 Violations, Penalties and Enforcement

- A. Authority to Inspect and Enforce
 1. The Zoning Officer is authorized to make such inspections as are reasonable and necessary to determine satisfactory compliance with this Ordinance as well as other enforcement provisions as described in Section 1-7.01.H herein.
 2. Whenever, upon inspection of any property, the Zoning Officer finds that conditions or practices exist which are in violation of this Ordinance, notice of the violation shall be given in accordance with Section 1-7.01.C of this Ordinance.
- B. Zoning Violation Defined
 1. A violation of this Ordinance occurs when there is:
 - a. any work on property which requires approval of the Zoning Officer and which:
 - i. has not been approved;₁₇ or
 - ii. exceeds the scope of, or is not in compliance with, any permit issued by the Department of Planning and Zoning and/or the Division of Inspections and Permits;₁₇ or
 - iii. exceeds the scope of, or is not in compliance with, any order or action of the Planning Commission or Board of Appeals;₁₇ or
 - iv. is otherwise not in compliance with this Ordinance.
 - b. any use of property which is not in compliance with this Ordinance.

(08/28/07)

Article 12: Definitions

<u>Term</u> (Date of Amendment)	<u>Definition</u>
<u>Liquid Natural Gas Import or Export Facility</u>	A Liquid Natural Gas Terminal as defined by the Code of Federal Regulations, 18 CFR §153.2(d), as amended from time to time, that is subject to regulation by the Federal Energy Regulatory Commission (FERC).

Chapter 18 – Building Construction

Revise Section 101.2 to read as follows:

101.2 Scope.

The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception 1: Detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.

Exception 2: Existing buildings undergoing repair, alterations or additions and changes of occupancy shall comply with the Maryland Building Rehabilitation Code set forth in COMAR Title 5, Subtitle 16.

Exception 3: With respect to any Qualified Commercial Power Generating Facility licensed or undergoing a license review by the U.S. Nuclear Regulatory Commission (NRC), pursuant to Title 10 of the Code of Federal Regulations, this code shall not apply to those buildings and structures which are subject to NRC review and inspection. The excepted buildings and structures include all portions of the power block, and all buildings and structures needed to support the power block functions, including, but not limited to, waste treatment facilities, security facilities, electrical transmission and distribution facilities, cooling towers, desalination plant, fire protection building and emergency power generating building. The excepted buildings and structures do not include office and administrative buildings and warehouses.

Exception 4: With respect to any Qualified Liquid Natural Gas Import or Export Facility licensed or undergoing a license review by the Federal Energy Regulatory Commission (FERC), pursuant to Title 49 of the Code of Federal Regulations (CFR) Part 193 – Liquefied Natural Gas Facilities: Federal Safety Standards and NFPA (National Fire Protection Association) 59A - Standard for the Production, Storage and Handling of Liquefied Natural Gas, this code shall not apply to those buildings and structures which are subject to FERC review and inspection. The excepted buildings and structures do not include those intended for human occupancy including office and administrative buildings and warehouses. In the event of a conflict between this Code and Title 49 of the Code of Federal Regulations Part 193 or NFPA 59A, the latter will prevail.

**CALVERT COUNTY HEALTH DEPARTMENT
DIVISION OF ENVIRONMENTAL HEALTH**

P.O. Box 980
Prince Frederick, Maryland 20678

Laurence Polsky, MD, MPH, F.A.C.O.G.
Health Officer

Paul S. McFaden, RS
Director



STATE OF MARYLAND

October 2, 2013

(410) 535-3922

Washington Area (301) 855-1557

FAX (410) 535-5252

www.calverthealth.org

To: Mary Beth Cook
Acting Director
Community Planning and Building

From: William E. Haygood R.S. ³⁴/_T

Re: Text Amendment Case # 13-09 – Comment.

This office has no comment on the proposed text amendment.

RECEIVED

OCT 02 2013

Community Planning & Bldg.



**ECONOMIC DEVELOPMENT
INTEROFFICE MEMORANDUM**

TO: Mary Beth Cook, Deputy Director, Dept. of Comm. Planning & Bldg.
FROM: Linda Vassallo, Director
DATE: October 17, 2013
SUBJECT: Text Amendment Case No. 13-09

Background:

A request for comments was received regarding Text Amendment Case No. 13-09:

Text Amendment Case No. 13-09–Proposed ordinance exemption for Liquid Natural Gas Import or Export Facility and updated references to the Land Use Article of the Maryland Annotated Code

Recommendation:

The Department of Economic Development (DED) offers the following comments regarding the above-referenced text amendment:

- Text Amendment Case No. 13-09 –The DED agrees with the proposed changes of this text amendment.

cc: Calvert County Board of County Commissioners



**CALVERT COUNTY
ECONOMIC DEVELOPMENT COMMISSION**

Courthouse, 175 Main Street
Prince Frederick, Maryland 20678
410-535-1600
www.ecalvert.com

Board of Commissioners
Gerald W. Clark
Pat Nutter
Susan Shaw
Evan K. Slaughenhoupt Jr.
Steven R. Weems

Kevin M. Frere, Chair

October 17, 2013

RECEIVED

OCT 16 2013

Ms. Mary Beth Cook
Deputy Director
Calvert County Department of Community Planning & Building
Courthouse
Prince Frederick, MD 20678

Community Planning & Bldg.

RE: Text Amendment Case No. 13-09-Proposed ordinance exemption for Liquid Natural Gas Import or Export Facility and updated references to the Land Use Article of the Maryland Annotated Code

Dear Ms. Cook:

On October 9, 2013, the Economic Development Commission (EDC) voted regarding the above-referenced text amendment:

- Text Amendment Case No. 13-09 – The EDC agrees with the proposed changes of this text amendment.

Thank you for the opportunity to comment on this proposed text amendment.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Frere".

Kevin Frere
Chair

cc: Calvert County Board of County Commissioners

**LEGAL NOTICE
JOINT PUBLIC HEARING
CALVERT COUNTY BOARD OF COUNTY COMMISSIONERS & PLANNING COMMISSION
RE: PROPOSED AMENDMENTS TO THE CALVERT COUNTY ZONING ORDINANCE (CCZO)
AND THE INTERNATIONAL BUILDING CODE**

The Calvert County Board of County Commissioners will hold a Joint Public Hearing on **Tuesday, October 29, 2013 at 7:00p.m.** in the Planning Commission Hearing Room at Courthouse Square, Ground Floor, 205 Main Street, Prince Frederick, Maryland, to consider proposed text amendments to the Calvert County Zoning Ordinance and amending the International Building Code.

The description of cases provided in this legal notice is intended to give a fair summary of the changes to be considered at the public hearing. Because the changes are comprehensive and numerous, it is not practical to list them all in this notice. Interested persons are urged to view the proposed amendments in their entirety by either contacting the Department of Community Planning & Building at (410) 535-1600 ext. 2334, cookmb@co.cal.md.us, or viewing the changes on the Community Planning & Building website at: www.co.cal.md.us/publichearings. The proposed changes may be substantively modified, revised, amended or otherwise changed based upon comments received at the public hearing.

The Board of County Commissioners does not discriminate on the basis of race, color, national origin, sex, religion, age or disability. Any reasonable accommodation for persons with disabilities or linguistic barriers should be requested by contacting the Board of County Commissioners office at (410) 535-1600 ext. 2202.

PROPOSED TEXT AMENDMENTS– October 29, 2013 PUBLIC HEARING

Case No.	Z.O. Section(s)	Summary of Proposed Text Amendments
13-08	CCZO- Section 3-1.06 Recreation Uses & Definitions, Uses #11a Target Range, Indoor, #11b Target Range, Outdoor & #11c Target Range, Institutional; Section 3-2.01 Dunkirk Table of Land Uses – Recreation Uses #19 & 21; Section 3-2.04 Prince Frederick Table of Land Uses – Recreation Uses #19 & 21; Section 3-2.06 Lusby Table of Land Uses – Recreation Uses #19 & 21; and Article 12, Definitions	Text amendments are proposed to add an additional use category to Article 3 of the CCZO for Institutional Target Ranges and to revise the conditions that must be addressed in order to permit Indoor and Outdoor Target Ranges. The amendments will also allow Target Ranges by Special Exception in some subareas of the Dunkirk, Prince Frederick and Lusby Town Centers.
13-09	CCZO- Article 1, Scope of Regulations, Sections 1-2.03 Exemption, 1-2.04 Statutory Authorization, 1-6.01 Procedures for Ordinance Amendments and Article 12, Definitions Code of Public Local Laws of Maryland, Article 5 (Calvert County), Chapter 18 – Building Construction, Section 18-1, Amending International Building Code 101.2, Scope.	Text amendments are proposed to Section 1-2.03 <u>Exemption</u> , Section 1-2.04 <u>Statutory Authorization</u> and Section 1-6.01 <u>Procedures for Ordinance Amendments</u> of the Calvert County Zoning Ordinance. The amendment to Section 1-2.03 proposes to provide an exemption for Liquid Natural Gas Import or Export Facilities from the requirements of the Ordinance. A definition of Liquid Natural Gas Import or Export Facility is being added to Article 12. Additionally, the amendments to 1-2.04 and 1-6.01 propose to delete reference to Article 66B and replace it with the current reference to the Land Use Article of the Maryland Annotated Code. Providing an exemption from the International Building Code for those buildings and structures of a Qualified Liquid Natural Gas Import or Export Facility that are subject to FERC review and inspection and not intended for human occupancy.