

Re: Tolling Expiration of Approvals and extending payment
for Sewer Capital Connection Charges to ease Economic Hardship

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ORDINANCE NO. 41-12

**AN ORDINANCE FOR THE PURPOSE OF EXTENDING SUBDIVISION, SITE PLAN,
BUILDING AND GRADING PERMITS, AND SPECIAL EXCEPTION APPROVALS,
AND AMENDING RESOLUTION 2-98 TO EXTEND APPROVALS AND DEFER
PAYMENT OF WATER & SEWERAGE TAP FEES TO ADDRESS CURRENT
ECONOMIC HARDSHIPS**

WHEREAS, pursuant to the authority contained in Article 66B of the Annotated Code of Maryland, the Board of County Commissioners of Calvert County, Maryland (hereinafter, the "Board") has the general powers to promulgate and amend zoning and subdivision regulations and has heretofore adopted the Calvert County Zoning Ordinance (hereinafter, the "Zoning Ordinance") pursuant thereto; and

WHEREAS, pursuant to the Zoning Ordinance, the Calvert County Planning Commission (hereinafter, the "Planning Commission") may make recommendations to the Board to supplement, modify, or repeal provisions of the text of the Zoning Ordinance; and

WHEREAS, Department of Planning and Zoning staff have proposed the following findings and recommendations for the consideration of the Planning Commission and the Board:

- A. The local building industry, as well as members and citizens of the county, have building and grading permit approvals, site plan approvals, subdivision approvals, special exceptions granted by the Board of Appeals, water & sewerage allocations or projects in various stages of approval that will expire with no way to proceed in today's difficult financial market;
- B. During its 2009 session, the Maryland Legislature passed emergency legislation (reference HB921) that extended the expiration dates of construction or development permits that expired during the period beginning January 1, 2008 and ending June 30, 2010;
- C. Some relief from the difficulties could be effective at the County level if expiration dates of construction or development permits were to be extended, and eventual economic recovery will be more rapid if building projects are ready to proceed without having to start over through the approval process;
- D. The provisions of this Ordinance and amendments to Resolution 2-98, Pertaining to the Repeal and Reenactment of a Water and Sewerage Allocation Policy should enable extensions of development approvals and defer payment of water & sewerage fees in accordance herewith; and

WHEREAS, the Planning Commission, following due notice published in the May 2, 2012 and May 9, 2012 editions of The Recorder, a newspaper of general circulation in Calvert County, held a public hearing on May 16, 2012 to accept public comment regarding a proposal

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to: (1) extend the expiration of approvals that would otherwise occur pursuant to Sections 4-2.04(A), 7-1.07(B)(8), and 11-1.02.D of the Zoning Ordinance, Section 105.6.3 of the 2009 International Building Code, Section R105.6.3 of the 2009 International Residential Code (IRC) and Section 5.2 of the Erosion and Sediment Control Ordinance; (2) ratify existing allocations of Water & Sewer Connections; (3) grant an extension of time to pay Water & Sewer Capital Connection Charges pursuant to Resolution 2-98; and (4) allow certain transfers of Sewer Taps as set forth below; and

WHEREAS, upon due consideration of the comments of the public and staff, the Planning Commission recommends that it is in the best interest of public health, safety and welfare of the citizens of Calvert County, Maryland, to: (1) extend the expiration of approvals that would otherwise occur pursuant to Sections 4-2.04(A), 7-1.07(B)(8), and 11-1.02.D of the Zoning Ordinance, Section 105.6.3 of the 2009 International Building Code, Section R105.6.3 of the 2009 International Residential Code (IRC), and Section 5.2 of the Erosion and Sediment Control Ordinance; (2) ratify existing allocations of Water & Sewer Connections; (3) grant an extension of time to pay Water & Sewer Capital Connection Charges pursuant to Resolution 2-98; (4) grant an extension of time to pay minimum user fees pursuant to Resolution 2-98; and (5) allow certain transfers of Sewer Taps as set forth below.

WHEREAS, the Board of County Commissioners, following due notice published in the May 4, 2012, May 9, 2012 and May 16, 2012 editions of The Recorder, a newspaper of general circulation in Calvert County, held a public hearing on May 22, 2012 to accept public comment regarding a proposal to: (1) extend the expiration of approvals that would otherwise occur pursuant to Sections 4-2.04(A), 7-1.07(B)(8), and 11-1.02.D of the Zoning Ordinance, Section 105.6.3 of the 2009 International Building Code, Section R105.6.3 of the 2009 International Residential Code (IRC) and Section 5.2 of the Erosion and Sediment Control Ordinance; (2) ratify existing allocations of Water & Sewer Connections; (3) grant an extension of time to pay Water & Sewer Capital Connection Charges pursuant to Resolution 2-98; and (4) allow certain transfers of Sewer Taps as set forth below; and

WHEREAS, upon due consideration of the comments of the public and staff, and the recommendation of the Planning Commission, the Board of County Commissioners finds that it is in the best interest of public health, safety and welfare of the citizens of Calvert County, Maryland, to: (1) extend the expiration of approvals that would otherwise occur pursuant to Sections 4-2.04(A) 7-1.07(B)(8) and 11-1.02.D of the Zoning Ordinance, Section 105.6.3 of the 2009 International Building Code, Section R105.6.3 of the 2009 International Residential Code (IRC), and Section 5.2 of the Erosion and Sediment Control Ordinance; (2) ratify existing allocations of water & sewer connections; (3) grant an extension of time to pay Water & Sewer Connection Charges pursuant to Resolution 2-98; (4) grant an extension of time to pay minimum user fees pursuant to Resolution 2-98; and (5) allow certain transfers of Sewer Taps as set forth below.

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NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners for Calvert County that, in light of current economic conditions and notwithstanding any other provisions of the Ordinances and Codes referenced below, extensions to the expiration of approvals of subdivisions, site plans, building & grading permits and special exceptions may be approved as follows :

1. The Planning Commission Administrator may, upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing, extend the expiration of subdivision approvals that would otherwise occur pursuant to Article 7-1.07.B.8 of the Calvert County Zoning Ordinance between the dates of January 1, 2008 and July 1, 2012, to July 1, 2014. Expiration of subdivision approvals occurring between July 1, 2012 and July 1, 2014, which will not receive the foregoing extension may be extended an additional two years from the subdivision's current expiration date upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing.
2. The Planning Commission Administrator may, upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing, extend the expiration of site plan approvals (preliminary or final) that would otherwise occur pursuant to Article 4-2.04.B of the Calvert County Zoning Ordinance between the dates of January 1, 2008 and July 1, 2012, to July 1, 2014. Expiration of site plan approvals occurring between July 1, 2012 and July 1, 2014, which will not receive the foregoing extension may be extended an additional two years from the site plan's current expiration date upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing.
3. Notwithstanding Section 105.6.3 of the 2009 International Building Code (IBC) and Section R105.6.3 of the 2009 International Residential Code (IRC), the Inspections & Permits Division Chief may, upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing, extend the expiration of building permit approvals that would otherwise have expired between the dates of January 1, 2008 and July 1, 2012 if given the one (1) year extension permitted by Section 105.6.3 of either the IBC or IRC, to July 1, 2014. Expiration of building permit approvals occurring between July 1, 2012 and July 1, 2014, which will not receive the foregoing extension may be extended an additional two years, from the building permit's current expiration date, (the same being an additional year beyond the one (1) year extension permitted in Section 105.6.3 of either the IBC or IRC), upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing.
4. The Project Management Division Chief may, upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing, extend the expiration of grading permit approvals that would otherwise occur pursuant to Section 2.5 of the Erosion and Sediment Control Ordinance between the dates of January 1, 2008 and July 1, 2012, to July 1, 2014. Expiration of grading permit approvals occurring between July 1, 2012 and July 1, 2014, which will not receive the

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foregoing extension may be extended an additional two years from the grading permit's current expiration date upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing.

5. The Board of Appeals Administrator may, upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing, extend the expiration of special exceptions that would otherwise occur pursuant to Article 11-1.02.D of the Calvert County Zoning Ordinance between the dates of January 1, 2008 and July 1, 2012, to July 1, 2014. Expiration of special exceptions occurring between July 1, 2012 and July 1, 2014, which will not receive the foregoing extension may be extended an additional two years from the special exception's current expiration date upon written request of the owner or authorized agent, and for good cause shown and without any notice or hearing.

BE IT FURTHER ORDAINED by the Board of County Commissioners for Calvert County that the foregoing shall supersede any inconsistent provision of the currently adopted and effective Zoning Ordinance, which shall otherwise remain in full force and effect.

BE IT FURTHER ORDAINED, by the Board of County Commissioners for Calvert County that the following sentence shall be appended to the end of Section 6 of the provisions of Resolution 2-98, Pertaining to the Repeal and Reenactment of a Water and Sewerage Allocation Policy:

All acquired, unexpired and not currently past due allocations made prior to June 1, 2012 are hereby ratified.

BE IT FURTHER ORDAINED, by the Board of County Commissioners for Calvert County that the following sentence shall be appended to the end of Section 10 of the provisions of Resolution 2-98, *Pertaining to the Repeal and Reenactment of a Water and Sewerage Allocation Policy*:

Notwithstanding any other provision of this Resolution, including, without limitation, the restriction upon transfer set forth above and at Section 15 hereof, upon written request of the owner or authorized agent, to the Director of Public Works submitted by close of business December 28, 2012, the project designation (being the project for which a sewer tap has been allocated) of any acquired, unexpired and not currently past due allocation for which no usage fee has been assessed may be amended so long as the receiving project: (1) is under common ownership; (2) has been approved; (3) is mapped for public water and sewerage service within the Comprehensive Water and Sewer Plan in effect upon the adoption of this Ordinance; and (4) the receiving project is in the same water and sewer service district as the transferring project. Notwithstanding the foregoing, only one (1) application to transfer allocations may be made per project.

BE IT FURTHER ORDAINED by the Board of County Commissioners for Calvert County that the following sentence shall be added a new Section 7.f to the provisions of

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Resolution 2-98, *Pertaining to the Repeal and Reenactment of a Water and Sewerage Allocation Policy*, which shall read:

- f. Notwithstanding any provision of this Section 7 of the Calvert County Water & Sewerage Allocation Policy:
1. Without any notice or hearing, the expiration of allocations, capital connection charges due and minimum user fees may be tolled for up to two (2) years for good cause shown upon written request of the owner or authorized agent, to the Calvert County Department of Public Works submitted prior to close of business on December 28, 2012.
 2. The Calvert County Department of Public Works may require any lien holder to execute and record a Subordination Agreement making the County's lien pursuant to this forbearance a first-priority lien.
 3. If the payment of any monies is tolled pursuant to this provision, interest shall be charged against the balance of the deferred amount at the fixed rate of the weighted interest rate realized by the water and sewer investment portfolio for the most recent quarter established at the time of site plan approval for new construction and building permit approval for renovations, whichever is applicable, plus One Percent (1%) and become due and payable upon the expiration of any extension granted hereunder.
 4. If tolled payments and interest are not paid upon the expiration of any extension granted hereunder, plus any additional time granted pursuant to Section 7.a through 7.b hereunder, the County may take all necessary actions to collect the deferred payments, interests and costs, including, but not limited to, attorney's fees. In addition, all paid allocations, capital connections charges, minimum user fees shall be forfeited to the County.
 5. Notwithstanding the foregoing, the balance of the capital connection charges and minimum user fees due and all accrued interest shall be paid upon application for building permit.

BE IT FURTHER ORDAINED by the Board of County Commissioners for Calvert County that the foregoing recitals are adopted as if fully rewritten herein.

BE IT FURTHER ORDAINED by the Board of County Commissioners for Calvert County that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance.

BE IT FURTHER ORDAINED, by the Board of County Commissioners for Calvert County that this enactment shall be effective on the date written below.

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DONE, this 12 day of June, 2012, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 4

Nay: 0

Absent/Abstain: Nutter

Effective: June 26, 2012

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND


Corinne J. Cook, Clerk

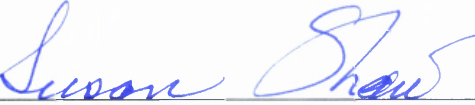

Gerald W. Clark, President

Approved for form and legal sufficiency on June 12, 2012 by:


Steven R. Weems, Vice-President


Pat Nutter


John B. Norris, III, County Attorney


Susan Shaw


Evan K. Slaughenhoupt Jr.

Received for Record June 21 2012
at 4:15 o'clock P. Same day
recorded in Liber KPS No. 40
Folio 232 COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.

