

Subject: Tolling Expiration of Approvals and
Extending payment for Sewer Capital Connection
Charges to stimulate economic growth

ORDINANCE

AN ORDINANCE FOR THE PURPOSE OF REPEALING ORDINANCE 27-14 AND ADOPTING A REVISED ORDINANCE FOR THE PURPOSE OF EXTENDING SUBDIVISION, SITE PLAN, BUILDING AND GRADING PERMITS AND SPECIAL EXCEPTION APPROVALS AND AMENDING RESOLUTION 02-14 TO EXTEND APPROVALS AND DEFER PAYMENT OF WATER AND SEWER TAP FEES TO ADDRESS CURRENT ECONOMIC HARDSHIPS

Recitals

WHEREAS, Title 4 and Title 5 to the *Land Use Article* of the Maryland Annotated Code empowers the Board of County Commissioners of Calvert County, Maryland to promulgate and amend zoning and subdivision regulations and has heretofore adopted the Calvert County Zoning Ordinance (hereinafter, the “Zoning Ordinance”) pursuant thereto;

WHEREAS, to address current economic hardships, the Board of County Commissioners did on the 17th day of June, 2014 adopt an ordinance for the purpose of extending subdivision, site plan, building and grading permits and special exception approvals and to amend Resolution 02-98, Pertaining to the Repeal and Re-enactment of a Water and Sewerage Allocation Policy;

WHEREAS, even though the economy is slowly recovering and there are signs of improvement, the Board of County Commissioners believe extending the tolling for another twelve (12) months will give those businesses with permits and approvals ample time to fully recover and start their projects;

WHEREAS, the Calvert County Planning Commission, following due notice published in the May 22 and May 29, 2015 editions of The Calvert Recorder, a newspaper of general circulation in Calvert County, held a public hearing on June 9, 2015 to accept public comment regarding a proposal to (1) repeal Ordinance 27-14; (2) 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; (3) ratify existing allocations of water and sewer connections; (4) grant an extension of time to pay water and sewer capital connection charges pursuant to Resolution 02-14; and (5) allow certain transfers of water and sewer taps;

WHEREAS, upon due consideration of the comments of the public and staff, the Planning Commission forwarded a recommendation to the Board of County Commissioners that the repeal of the previous Ordinance 27-14 and that the adoption of a revised Ordinance for the purpose of further extending subdivision, site plan, building and grading permits and special

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exception approvals and amending Resolution 02-14 to extend approvals and defer payment of water and sewer tap fees and to allow certain transfers of water and sewer taps is in the best interest of public health, safety and welfare of the citizens of Calvert County, Maryland;

WHEREAS, the Board of County Commissioners, on June 9, 2015, for which due public notice was published in the May 22 and May 29, 2015 editions of The Calvert Recorder, a newspaper of general circulation in Calvert County, the Board of County Commissioners of Calvert County, Maryland conducted a public hearing at which time an ordinance for the purpose of repealing Ordinance 27-14 and adopting a revised ordinance for the purpose of extending subdivision, site plan, building and grading permits and special exception approvals and amending Resolution 02-14 to extend approvals and defer payment of water and sewer tap fees and to permit the transfer of certain water and sewer taps to address current economic hardships was discussed, staff's recommendations were considered, and public comment was solicited;

WHEREAS, all procedural requirements regarding due public notice and subsequent action of the Board of County Commissioners of Calvert County, Maryland have been met;

WHEREAS, the Board of County Commissioners, having considered the Planning Commission's recommendations, the recommendations of staff and all public comments, has determined it is in the best interest of the health, safety and welfare of the citizens of the County to repeal Ordinance 27-14 and to adopt a revised ordinance for the purpose of: extending subdivision, site plan, building and grading permits; extending special exception approvals; and amend Resolution 02-14 to extend approvals and defer payment of water and sewer tap fees and to permit the transfer of certain water and sewer taps, all as set forth further below in order to address current economic hardships.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calvert County, Maryland that Ordinance 27-14, adopted June 17, 2014, is hereby repealed.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in light of current economic conditions and notwithstanding any 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: Without any notice or hearing, 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, are extended to May 4, 2017. Without any notice or hearing, expiration of subdivision approvals occurring between July 1, 2012 and August 1, 2014, which will not receive the foregoing extension are extended an additional four (4) years or completed by May 4, 2017, whichever is greater, from the subdivision's expiration date subject to the requirements of valid Erosion and Sediment Control plan approvals as issued by the Maryland Department of Environment and subject to the requirements of a valid grading

permit. This extension shall remain valid unless state legislation or state guidelines supersedes or voids all or any part of the approval.

1. Without any notice or hearing, the expiration of either preliminary or final site plan approvals 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, are extended to May 4, 2017. Expiration of either preliminary or final site plan approvals occurring between July 1, 2012 and August 1, 2014, which will not receive the foregoing extension are extended an additional four (4) years or completed by May 4, 2017 whichever is greater, from the site plan's expiration date. Any revised expiration of either a preliminary or final site plan approval is subject to the requirements of valid Erosion and Sediment Control plan approvals as issued by the Maryland Department of Environment and subject to the requirements of a valid grading permit. This extension shall remain valid unless state legislation or state guidelines supersedes or voids all or any part of the approval.
2. Without any notice or hearing, and notwithstanding Section 105.6.3 of the 2009 International Building Code (IBC) and Section R105.6.3 of the 2009 International Residential Code (IRC), building permits 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, are extended to May 4, 2017. Expiration of building permit approvals occurring between July 1, 2012 and August 1, 2014, which will not receive the foregoing extension are extended an additional four (4) years, or completed by May 4, 2017 whichever is greater, 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 IBC or IRC), without any notice or hearing.
3. Without any notice or hearing, the expiration of grading permit approvals that would otherwise occur pursuant to Section 5.2 of the Erosion and Sediment Control Ordinance between the dates of January 1, 2008 and July 1, 2012 are extended to and shall expire no later than May 4, 2017. Expiration of grading permits occurring between July 1, 2012 and August 1, 2014, which will not receive the foregoing extension are extended to and shall expire no later than May 4, 2017. This ordinance does not extend Erosion and Sediment Control Final Plan approvals dated after May 4, 2013. Final plan approvals, dated after May 4, 2013, are subject to current Maryland Department of Environment Stormwater Management regulations. Grading permit applications containing Stormwater Management Plans which received approvals on or before May 4, 2010 must complete site construction by May 4, 2017. This extension is valid unless state legislation or state guidelines supersedes or voids all or any part of the approval, including, without limitation, Maryland Department of Environment permits and Erosion and Sediment Control plan approvals.
4. Without any notice or hearing, special exception expirations 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, are extended to July 1, 2016.

Expiration of special exceptions occurring between July 1, 2012 and August 1, 2014, which will not receive the foregoing extension are extended an additional four (4) years, from the special exception's current expiration date 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 or the currently adopted and effective Erosion and Sediment Control 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 1.a of the provisions of Resolution 02-14, Pertaining to the Repeal of Resolution Nos. 6-91 and 02-98 and Adoption of an Amended Water and Sewer Allocation Policy:

- i. 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 9 of the provisions of Resolution 02-14, Pertaining to the Repeal of Resolution Nos. 6-91 and 02-98 and Adoption of an Amended Water and Sewer Allocation Policy:

- a. Notwithstanding any other provision of this Resolution, including, without limitation, the restriction upon transfer set forth above, 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 4.h to the provisions of Resolution 2-14, Pertaining to the Repeal of Resolution Nos. 6-91 and 2-98 and Adoption of an Amended Water and Sewer Allocation Policy which shall read:

- h. Notwithstanding any provision of this Section 4 of the Calvert County Water & Sewer Allocation Policy:

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1. Without any notice or hearing, the expiration of allocations, capital connection charges due and minimum user fees may be tolled for up to four (4) 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 4.b through 4.c 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, 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 of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

BE IT FURTHER ORDAINED, by the Board of County Commissioners of Calvert County, Maryland that this Ordinance shall be effective as set forth below upon recordation and publication of a fair summary.

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DONE, this 9th day of June, 2015 by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 5
Nay: 0
Absent/Abstain: 0

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND

Maureen L. Frederick, Clerk

Steven R. Weems, President

Approved for form and legal sufficiency by:

Evan K. Slaughenhoupt, Jr., Vice-President

John B. Norris, III, County Attorney

Mike Hart
Tom Hejl

Pat Nutter

Received for Record June 17 2015 at 9:53 o'clock A.M. Same day recorded in Liber KPS No. 47 Folio 283 COUNTY COMMISSIONERS ORDINANCES AND RESOLUTION.

Garry P. Smith