

Expedited Bill No. 5-09
Concerning: [[Permit Fees - New Construction -- Deferral]] Building Permits - Extensions
Revised: 4-21-09 Draft No. 5
Introduced: February 10, 2009
Enacted: April 21, 2009
Executive: April 30, 2009
Effective: Sec. 1 - June 29, 2009;
Sec. 2 - July 1, 2011
Sunset: See § ~~[[2]] 3~~
Ch. 10, Laws of Mont. Co. 2009

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- [[(1) authorize the deferral of certain permit, inspection, license, and engineering fee payments for a certain period;]]
[[(2)]] (1) temporarily extend the time limit for abandonment of a building permit application;
[[(3)]] (2) temporarily extend the time ~~[[for recording an initial]]~~ to record a building inspection; and
[[(4)]] (3) generally amend the laws regarding permits ~~[[and related fees]]~~.

By amending

Montgomery County Code
Chapter 8, Buildings
Sections 8-24 and 8-25

[[By adding

Chapter 2, Administration
Section 2-42C]]

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 8-24 and 8-25 are amended [[and Section 2-42C is added]]**
2 **as follows:**

3 **8-24. Application for permit.**

4 * * *

5 (h) **Amendments to application.** Subject to [the limitations of] subsection
6 (i) [of this section], [amendments] an amendment to a plan, application,
7 or other [records accompanying the same] document may be filed at any
8 time before [completion of] the work for which the permit is sought or
9 issued is completed. [and such amendments shall] Each timely filed
10 amendment must be [deemed] treated as part of the original application
11 and [shall be] filed [therewith] with it.

12 (i) **Time [limitation of application] limit.** An application for a permit for
13 any proposed work [shall be deemed to have been] must be treated as
14 abandoned [six (6)] 12 months after [date of filing] the application was
15 filed, unless [such] the application has been diligently prosecuted or a
16 permit [shall have been] was issued. [; except, that] However, for
17 reasonable cause, the Director may [grant one (1) or more extensions of
18 time] extend the time for the Department to consider an application for
19 one or more additional periods which do not [exceeding ninety (90)]
20 exceed 90 days each.

21 **8-25. Permits.**

22 * * *

23 (b) *Time limit.*

- 24 (1) A building permit is invalid if:
 - 25 (A) an approved inspection, as required by this Chapter, is not
 - 26 recorded in the Department's inspection history file within
 - 27 [12] 18 months after the permit is issued and a second

28 approved inspection is not recorded in the Department's
 29 inspection history file within [14] 20 months after the
 30 permit is issued; or

31 * * *

32 **[[2-42C. Permit fees -new construction - deferrals.**

33 (a) Definitions. In this section the following words have the meanings
 34 indicated:

35 (1) Fee or Fees mean any permit fee, license fee, inspection fee, or
 36 engineering fee required to be paid before a permit or license is
 37 issued or an inspection is made under Chapter 8, 17, 19, 27A, or
 38 49.

39 (2) New Construction means:

40 (A) any new building; and

41 (B) any addition or renovation of an existing building that
 42 replaces 50% or more of the existing first floor exterior
 43 walls, measured around the perimeter of the building.

44 (3) Owner means a person who has legal record title to the real
 45 property on which the new construction is proposed.

46 (b) Authorization to Defer. An owner or other applicant may defer
 47 payment of a fee associated with new construction, if the fee exceeds
 48 \$400 and all other requirements of this Section are met, for 12 months
 49 after the fee is otherwise due.

50 (c) Conditions of Deferral.

51 (1) An owner must apply for deferral of a fee to the Director on a
 52 form supplied by the Department.

53 (2) As part of the application, the owner must execute a written
 54 agreement with the Director. The agreement must provide that

55 the owner consents to all terms and conditions of the deferral,
 56 including the collection of deferred fees through the tax sale
 57 process and recordation of the agreement or notice of the
 58 agreement in the County land records.

59 (3) The Director must record the agreement or notice of the
 60 agreement in the County land records. The notice must include a
 61 conspicuous statement that indicates it is being recorded by or on
 62 behalf of the County.

63 (d) Events accelerating payment. All deferred fees and accumulated
 64 interest and penalty, if any, become immediately payable when:

65 (1) the ownership of the property subject to a lien for repayment of
 66 the deferred fees is transferred; or

67 (2) the property becomes subject to tax sale.

68 (e) Payment, Early Payment; Termination of Lien.

69 (1) An Owner must pay a deferred fee on or before the end of the
 70 deferral period.

71 (2) After the owner pays the deferred fees and any accrued interest
 72 and penalty, the Director must record a notice of termination of
 73 the fee deferral lien in the County land records. The notice must
 74 include a conspicuous statement that indicates it is being recorded
 75 by or on behalf of the County.

76 (f) Delinquent Fees.

77 (1) Interest and Penalty. Any fee paid after the deferral period
 78 expires accrue interest and penalty on the amount of the deferred
 79 fees until paid at the rate which applies to delinquent real
 80 property taxes.

81 (g) Lien on Real Property and Collection. All fees deferred and any

82 accrued interest and penalty constitute a first lien on the real property to
 83 which the fees apply until paid. The deferred fees may be collected by
 84 suit or tax sale as with all other real property taxes. If any person liable
 85 does not pay all deferred fees as provided, the property may be certified
 86 to the Department of Finance and the lien may be sold at the next tax
 87 sale the County conducts. All deferred fees constitute a personal
 88 liability of the owner of the property.

89 (h) Penalties for False or Fraudulent Information. A person who knowingly
 90 submits a false or fraudulent application or statement or withholds
 91 information in order to obtain a deferral under this Section:

92 (1) has committed a Class A violation.

93 (2) is liable for and must repay to the County any deferred fees plus
 94 interest and penalty at the rate which applies to delinquent real
 95 property taxes from the date of the deferral to the date of
 96 payment; and

97 (3.) is liable for all court costs and expenses of the County, including
 98 attorney's fees, in a civil action brought by the County.

99 (i) Regulations. The County Executive may adopt regulations under
 100 method (2) to administer this fee deferral program.]]

101 **[[Sec. 2. Sunset. County Code Section 2-42C, inserted by Section 1 of this**
 102 **Act, expires on April 1, 2010.]]**

103 **Sec. 2. Sections 8-24 and 8-25, as amended by Section 1 of this Act, are**
 104 **further amended as follows:**

105 **8-24. Application for permit.**

106 * * *

107 (i) **Time limit.** An application for a permit for any proposed work must be
 108 treated as abandoned **[[12]] 6** months after the application was filed,

109 unless the application has been diligently prosecuted or a permit was
110 issued. However, for reasonable cause, the Director may extend the
111 time for the Department to consider an application for one or more
112 additional periods which do not exceed 90 days each.

113 **8-25. Permits.**

114 * * *

115 (b) *Time limit.*

116 (1) A building permit is invalid if:

117 (A) an approved inspection, as required by this Chapter, is not
118 recorded in the Department's inspection history file within
119 ~~[[18]]~~ 12 months after the permit is issued and a second
120 approved inspection is not recorded in the Department's
121 inspection history file within ~~[[20]]~~ 14 months after the
122 permit is issued; or

123 * * *

124 **Sec. 3. Expedited Effective Date.** The Council declares that this
125 legislation is necessary for the immediate protection of the public interest. This
126 Act takes effect 60 days after it becomes law. Section 2 of this Act takes effect on
127 July 1, ~~[[2010]]~~ 2011.

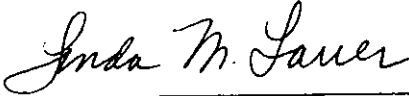
128 *Approved:*

129  April 22, 2009
Philip M. Andrews, President, County Council Date

130 *Approved:*

131  April 30, 2009
Isiah Leggett, County Executive Date

132 *This is a correct copy of Council action.*

133  May 4, 2009
Linda M. Lauer, Clerk of the Council Date