

**MEMORANDUM**

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** Expedited Bill 5-09, Permit Fees – New Construction - Deferral

Expedited Bill 5-09, Permit Fees – New Construction - Deferral, sponsored by the Council President at the request of the County Executive, was introduced on February 10, 2009. A Planning, Housing and Economic Development Committee worksession is tentatively scheduled for March 9 at 2 p.m.

Bill 5-09 would allow applicants to defer payment of certain Department of Permitting Services (DPS) permit, inspection, license, and engineering fees for 12 months. It also extends the time limits to abandon a building permit and to record the initial building inspection with DPS.

This deferral authority would apply starting 60 days after this Bill becomes law until the Bill sunsets on April 1, 2010 -- that is, anyone obligated to pay a covered fee during that period could defer payment for 12 months, even if the deferral would extend after April 1, 2010. The fee ultimately paid would be calculated, we presume, at the rate and terms which applied when it was originally due, but this Bill may need to be amended to make this clear.

**Fiscal impact** Assuming, as OMB does, that 75% of the covered fees would be deferred, the County's cost in lost interest would be about \$200,000, with an estimated added administrative cost of about \$37,000, which DPS would be expected to absorb (see fiscal impact statement, ©9-10).

<u>This packet contains</u>	<u>Circle</u>
Expedited Bill 5-09	1
Legislative Request Report	7
Memo from County Executive	8
Fiscal impact statement	9

Expedited Bill No. 5-09  
Concerning: Permit Fees - New  
Construction - Deferral  
Revised: 2-9-09 Draft No. 2  
Introduced: February 10, 2009  
Expires: August 10, 2010  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset: See § 2  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) authorize the deferral of certain permit, inspection, license, and engineering fee payments for a certain period;
- (2) extend the time limit for abandonment of a building permit;
- (3) extend the time for recording an initial building inspection; and
- (4) 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

<b>Boldface</b>	<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:*



27 within [12] 18 months after the permit is issued and a  
28 second approved inspection is not recorded in the  
29 Department's inspection history file within [14] 20  
30 months after the 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.



## LEGISLATIVE REQUEST REPORT

Expedited Bill 5-09

*Permit Fees – New Construction - Deferral*

- DESCRIPTION:** Adds new Sections to the law to allow the deferral of the payment of permit fees and other fees for new construction for 12 months.
- PROBLEM:** The current economic climate impacts the ability of builders to pay the fees prior to construction.
- GOALS AND OBJECTIVES:** By deferring payment of fees the legislation will encourage new construction.
- COORDINATION:** Department of Permitting Services.
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** Subject to the general oversight of the County Council and County Executive.
- EXPERIENCE ELSEWHERE:** Not applicable
- SOURCE OF INFORMATION:** Tom Street, Assistant Chief Administrative Officer (240-777-2559)
- APPLICATION WITHIN MUNICIPALITIES:** Yes.
- PENALTIES:** Class A violation.

BILL



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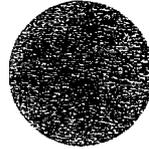
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Isiah Leggett  
County Executive

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

MEMORANDUM

February 4, 2009



TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Deferral of Permit Fees

I am attaching for the Council's consideration a bill which would allow a business to defer payment of permit, inspection, license, and engineering fees for 12 months. I am also attaching a Legislative Request Report for the proposed bill.

This bill is one of four legislative proposals which I am submitting to the Council to implement the 11-point economic plan which I announced in December 2008. Each legislative proposal is designed to ease some of the difficulties experienced by local businesses as a result of the national economic downturn. The current economic climate impacts the ability of builders to pay permit, inspection, license, and engineering fees before construction. Allowing a builder to defer payment of these fees will help to encourage new construction which is aimed at retaining existing jobs and creating new job opportunities. This deferral is only temporary and enables the payment to be made at a point in the development process that is closer to when a builder can expect to receive income from a project. This will reduce carrying costs for a project.

My 11-point economic plan included a proposal to provide an economic impact analysis for all legislative and regulatory changes which would analyze the impact of each proposed change on local businesses. We are in the process of completing an economic impact analysis for this bill and will forward it to Council in the near future along with the normal fiscal impact statement. I look forward to working with the Council as it considers this bill and my other three legislative proposals which provide opportunities for some measure of relief to our business community and residents.

IL:dg

Attachments (2)

B 5-09



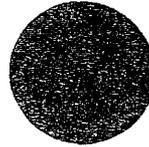
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OFFICE OF MANAGEMENT AND BUDGET 040537

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM



February 5, 2009

2009 FEB 17 PM 1:24

MONTGOMERY COUNTY  
COUNCIL

TO: Phil Andrews, County Council President  
FROM: Joseph F. Beach, Director, Office of Management and Budget  
SUBJECT: Expedited Bill XX - New Construction Permit Fee Deferral

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

**LEGISLATION SUMMARY**

The purpose of the legislation is to create new Sections in Chapters 8, 17, 19, 27A, and 49 of the Montgomery County Code to authorize the deferral for a period of 12 months of the payment of permit fees, inspection fees, license fees, and engineering fees and to set out the terms and conditions of the deferral and for the repayment of the deferred fees.

**FISCAL SUMMARY**

Estimating that 75% of revenues from the fees will be deferred (\$12,692,600) and assuming a 1.5% interest rate, the loss in interest income would be \$190,389 for the year. Deferral of the fees DPS collects for MCFRS (\$584,140) would also reduce interest income for the County by \$8,760.

DPS is currently upgrading the Hansen permit system application and database. To support the new legislation, the migration scripts that convert the Hansen 7 Database to the Hansen 8 Database will have to be modified by the vendor for every Permit Type. Converted data must be verified. DPS estimates that the vendor will require an additional \$20,000. The existing contract will require modification and approval by the Office of the County Attorney and Department of General Services. This additional cost will be absorbed within DPS' current appropriation.

Office of the Director

9

Phil Andrews  
February 5, 2009  
Page 2

DPS will be required to invoice program participants for collection of the deferred fees. To perform this, the fiscal impact to DPS would be administrative costs for the supplies and postage for the billing. This would average \$2 per permit. Estimating a 75% participation rate, the administrative cost would be \$17,226. This projected increase in administrative costs will be absorbed within DPS' current appropriation.

The following contributed to and concurred with this analysis: Tom Laycock, Department of Permitting Services, Gail Lucas, Department of Permitting Services.

JFB:brg

c: Tom Street, Assistant Chief Administrative Officer  
Kathleen Boucher, Assistant Chief Administrative Officer  
Dee Gonzalez, Office of the County Executive  
Carla A. Reid, Director, Department of Permitting Services  
Amy Wilson, Office of Management and Budget  
Brady Goldsmith, Office of Management and Budget