

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 2009, Legislative Day No. 12

Bill No. 58-09

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Councilmembers Kamenetz, Gardina, McIntire, Oliver & Olszewski

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By the County Council, July 6, 2009

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A BILL  
ENTITLED

AN ACT concerning

Development

FOR the purpose of requiring adherence to all current laws and zoning classifications for certain residential development plans; providing for the expiration of development plan approval; providing for the manner and time of the vesting of development plans; defining terms; providing limits on the vesting of certain development plans; providing for the application of the Act; and generally relating to the development process and the expiration and vesting of development plans.

BY adding

Section 32-4-101(ccc) and (ddd)  
Article 32 - Planning, Zoning and Subdivision Control  
Title 4 - Development  
Baltimore County Code 2003

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EXPLANATION:           CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
                                  [Brackets] indicate matter stricken from existing law.  
                                  ~~Strike out~~ indicates matter stricken from bill.  
                                  Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments  
Sections 32-4-261 and 32-4-262  
Article 32 - Planning, Zoning and Subdivision Control  
Title 4 - Development  
Baltimore County Code 2003

BY adding  
Section 32-4-264  
Article 32 - Planning, Zoning and Subdivision Control  
Title 4 - Development  
Baltimore County Code 2003

BY repealing  
Section 32-4-273 and Subsections 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2)  
Article 32 - Planning, Zoning and Subdivision Control  
Title 4 - Development  
Baltimore County Code 2003

BY repealing and re-enacting, with amendments  
Sections 32-4-274  
Article 32 - Planning, Zoning and Subdivision Control  
Title 4 - Development  
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE  
2 COUNTY, MARYLAND, that Section 32-4-101(ccc) and (ddd) be and ~~it is~~ they are hereby added  
3 to Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore  
4 County Code 2003, to read as follows:  
5 32-4-101. Definitions.  
6 (CCC) VESTED. THE TERM “VESTED” OR “VESTING” IS A PROTECTED STATUS  
7 CONFERRED ON A DEVELOPMENT PLAN. A VESTED DEVELOPMENT PLAN SHALL  
8 PROCEED IN ACCORDANCE WITH THE APPROVED PLAN AND THE LAWS IN EFFECT  
9 AT THE TIME PLAN APPROVAL IS OBTAINED. A PROPERTY OWNER, DEVELOPER OR  
10 APPLICANT OBTAINS VESTED RIGHTS FOR A DEVELOPMENT PLAN IN ACCORDANCE  
11 WITH SECTION 32-4-264 OF THIS TITLE.  
12 (DDD) “NON-RESIDENTIAL PLAN” MEANS A PLAN OF DEVELOPMENT IN WHICH THE  
13 DOMINANT ELEMENT OF THE PLAN IS (1) A COMMERCIAL DEVELOPMENT, (2) AN

1 INDUSTRIAL DEVELOPMENT, OR (3) A SENIOR HOUSING, ASSISTED LIVING, LIFE  
2 CARE, CONTINUING CARE OR ELDERLY HOUSING FACILITY, CHURCH, SCHOOL, OR  
3 OTHER INSTITUTIONAL USE.

4 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 32-4-261 and 32-4-262 of  
5 Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore  
6 County Code 2003, be and it is hereby repealed and re-enacted, with amendments, to read as  
7 follows:

8 **§ 32-4-261. EXPIRATION OF DEVELOPMENT PLAN APPROVAL.**

9 (a) *In general.* [Unless extended under subsection (b) or under §32-4-274(a) of this subtitle, ]  
10 Development Plan approval shall expire 4 years after the date a final, non-appealable approval was  
11 granted, UNLESS THE PLAN WAS VESTED PURSUANT TO SECTION 32-4-264. AN  
12 APPROVED DEVELOPMENT PLAN MAY BE EXTENDED UNDER SUBSECTION (B) OR  
13 UNDER §32-4-274(A).

14 (b) *Request for extension.*

15 (1) An applicant may make a written request to the Hearing Officer for a one year extension of the  
16 4 year Development Plan approval period provided under subsection (a) of this section upon a  
17 showing that a county agency failed to properly process an essential request necessary to achieve  
18 vesting in a timely fashion, causing a delay beyond the initial four years after the final, non-  
19 appealable approval was granted.

20 (2) The request for extension shall be filed prior to the expiration of four years from the date of  
21 approval of the Development Plan.

22 (3) The Hearing Officer shall act within 60 days of the filing of the request and may grant, in  
23 writing, the request for an extension.

24 (4) The Hearing Officer may not act upon the request for an extension until comments from the  
25 applicable agencies are received.

1 (5) Any appeal of the extension granted under subsection (b) shall be on the record. The standard  
2 of review shall be based upon an abuse of discretion.

3 (c) *Expiration of reclamation plan.* Approval by the Hearing Officer of a Development Plan for  
4 which there is an approved reclamation plan shall expire 15 years from approval of the reclamation  
5 plan by the Planning Board under Subtitle 5 of this title, UNLESS THE PLAN WAS VESTED  
6 PURSUANT TO SECTION 32-4-264.

7 **§32-4-262. AMENDMENTS TO DEVELOPMENT PLANS.**

8 (1) Any material amendment to an approved non-residential [Development Plan] PLAN;  
9 ~~INCLUDING A LIFE CARE OR CONTINUING CARE FACILITY PLAN~~, shall be reviewed and  
10 approved in the same manner as the original plan.

11 (2) Any material amendment to [than] AN approved residential Development Plan or plat  
12 shall be reviewed in accordance with this title, and with respect to that portion of the original plan  
13 or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all  
14 current law [and regulations, including the development regulations and the zoning regulations].  
15 For purposes of this paragraph, any amendment to a plan or plat that results in an increase in density  
16 or increase in the number of buildable lots is a material amendment.

17 SECTION 3. AND BE IT FURTHER ENACTED, that Section 32-4-264 be and it is hereby  
18 added to Article 32-Planning, Zoning and Subdivision Control. Title 4 - Development, of the  
19 Baltimore County Code 2003, to read as follows:

20 **§32-4-264. VESTING OF DEVELOPMENT PLANS.**

21 (A) IN GENERAL. A DEVELOPMENT PLAN VESTS IN ACCORDANCE WITH THE  
22 PROVISIONS OF THIS SECTION.

23 (B) NON-RESIDENTIAL PLAN.

24 (1) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~  
25 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS NOT RECORDED VESTS WHEN SUBSTANTIAL  
26 CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE PLAN.

27 (2) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~  
28 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS RECORDED VESTS WHEN PLAT  
29 RECORDATION OCCURS FOR ANY PORTION OF THE PLAN.

1 (C) RESIDENTIAL DEVELOPMENT PLAN.

2 (1) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS NOT RECORDED  
3 VESTS WHEN SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY  
4 PORTION OF THE PLAN.

5 (2) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS RECORDED VESTS  
6 WHEN PLAT RECORDATION OCCURS FOR ANY LOT, TRACT, SECTION OR PARCEL  
7 THEREOF.

8 (D) LIMITATION ON VESTING. UNLESS AN EXTENSION HAS BEEN GRANTED UNDER  
9 §32-4-274, CONSTRUCTION RELATING TO A VESTED RESIDENTIAL DEVELOPMENT  
10 PLAN THAT OCCURS MORE THAN 9 YEARS AFTER THE PLAN WAS GRANTED FINAL,  
11 NON-APPEALABLE APPROVAL SHALL COMPLY WITH ALL LAWS IN EFFECT AT THE  
12 TIME PERMITS ARE ISSUED.

13 (E) RECLAMATION PLAN. AN APPROVED RECLAMATION PLAN VESTS WHEN  
14 SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE  
15 PLAN.

16 SECTION 4. AND BE IT FURTHER ENACTED, that Section 32-4-273 and Subsections  
17 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2) of Article 32-Planning, Zoning and Subdivision Control,  
18 Title 4 - Development, of the Baltimore County Code 2003, be and ~~it is~~ they are hereby repealed.

19 SECTION 5. AND BE IT FURTHER ENACTED, that Section 32-4-274(a) of Article 32-  
20 Planning, Zoning and Subdivision Control. Title 4 - Development, of the Baltimore County Code  
21 2003, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

22 **§ 32-4-274. EXTENSION OF TIME LIMIT FOR VALIDITY OF SUBDIVISION [PLATS**  
23 **AND APPROVED] PLANS.**

24 (a) *In general.* The Department of Permits and Development Management shall extend [a  
25 subdivision plat for an entire subdivision or any section or parcel of the subdivision or] an approved  
26 Development Plan that would otherwise [lapse] EXPIRE and become invalid under the provisions  
27 of § 32-4-261 [or § 32-4-273] of this subtitle if a deficiency in basic services for water, sewer, or  
28 transportation[:

29 (1) Prevented the applicant from recording the plat ; or

30 (2) Prevented development] PREVENTED THE VESTING OF THE PLAN , in accordance with  
31 § [32-4-273(d)] 32-4-264 of this subtitle[, of the recorded subdivision plat, the entire subdivision,  
32 or a section or parcel of the subdivision].

1 (b) *Length of extension - Approved plans.* With respect to an approved Development Plan, the length  
2 of time of any extension shall be equivalent to the lesser of:

- 3 (1) The period of time that the deficiency prevents a plat from being recorded; or
- 4 (2) The period of time remaining for plan validity at the time of the deficiency determination.

5 [(c) *Same - Recorded subdivision plat.*

6 (1) With respect to a recorded subdivision plat, the length of time of an extension shall be equivalent  
7 to the lesser of:

- 8 (i) The period of time that the deficiency prohibits or prohibited development of the entire  
9 subdivision or any section or parcel of the subdivision; or
- 10 (ii) The period of time remaining for plat validity at the time of deficiency.

11 (2) In the event a deficiency occurs in the last 18 months of the life of a plat, the length of time of  
12 the extension allowed shall be 18 months.]

13 [(d)] (C) *Determination of deficiency.* For the purpose of determining the extension of the time  
14 limit of the validity of a [plat or] Development Plan, the Department of Permits and Development  
15 Management shall consider property that is the subject of the plan [or plat] to have a deficiency if:

- 16 (1) Subsequent to plan approval or plat recordation the property is shown to be or to have been  
17 within a deficient service area on a basic service map adopted by the County Council; or
- 18 (2) The issuance of building permits or the construction of public improvements or private  
19 improvements is or was prohibited by order of the state or county.

20 SECTION 6. AND BE IT FURTHER ENACTED, that this Act shall apply to any  
21 development, subdivision, parcel of land, or plat which received any form of approval from  
22 Baltimore County prior to the effective date of this Act as follows:

23 (A) An unexpired residential development plan that was approved prior to the effective date of this  
24 Act, but not yet vested in accordance with the law in effect prior to the effective date of this Act,

1 may acquire vested status in accordance with the provisions of this Act. If the plan vests within four  
2 years from the effective date of this Act, the vested status shall date from the effective date of this  
3 Act for a period of nine years.

4 (B) A residential development plan for which ~~a plat was recorded and~~ an unexpired plat was  
5 recorded or vested prior to the effective date of this Act, ~~but not yet expired~~, shall be vested for a  
6 period of nine years dating from the effective date of this Act.

7 (C) Any amendment to a residential plan, or any application for further development of an unexpired  
8 residential development plan or plat that was approved prior to the effective date of this Act, or any  
9 part thereof, whether vested or not, shall be processed by the County in accordance with the  
10 provisions of Article 32, Title 4, ~~Subtitle 2~~ of the County Code. Any prior process for residential  
11 development approval that was utilized under prior enactments of the development regulations or  
12 the zoning regulations, or any administrative interpretation(s) thereof, including any written County  
13 authorizations expressing such interpretations, is no longer valid. This subsection does not apply  
14 to an amendment accepted for filing prior to July 6, 2009 or to an amendment to a planned unit  
15 development if the development was approved prior to 1990.

16 SECTION 7. AND BE IT FURTHER ENACTED, that this Act is adopted independently  
17 of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the  
18 rights to the vesting or processing of a development that would otherwise accrue from any provision  
19 of the zoning or development regulations or any other County laws or administrative interpretations  
20 thereof.

21 SECTION 8. AND BE IT FURTHER ENACTED, that this Act, having been approved by  
22 the affirmative vote of five members of the County Council, shall take effect on August 17, 2009.