

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Commissioners of St. Mary's County will hold a Public Hearing on **April 4, 2017 at 6:30pm** in the Chesapeake Building located at 41770 Baldrige Street in Leonardtown, Maryland to consider **Amending Chapter 223 of the Code of St. Mary's County, MD to Repeal and Re-enact Provisions for a Development Impact Fee.**

Citizens are encouraged to attend and participate in the public hearing.

Note that as a result of the evidence and comments made at the public hearing, amendments may be made to the proposed **Ordinance**.

Written comments, questions and suggestions may be submitted on or before **April 11, 2017** to: Commissioners of St. Mary's County, P.O. Box 653, Leonardtown, MD 20650.

Copies of the proposed **Ordinance** are available in the Finance Department & www.stmarysmd.com.

Any reasonable accommodation for persons with disabilities should be requested by contacting the St. Mary's County Public Information Officer at (301) 475-4200, *1342.

By: L. Jeannett Cudmore, Chief Financial Officer

Subject: To Amend Chapter 223 of the *Code of St. Mary's County, Maryland*, to Repeal and Re-enact Provisions for a Development Impact Fee

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ORDINANCE

TO AMEND CHAPTER 223 OF THE *CODE OF ST. MARY'S COUNTY, MARYLAND*, TO REPEAL AND RE-ENACT PROVISIONS FOR A DEVELOPMENT IMPACT FEE

RECITALS

WHEREAS, pursuant to §20-707 of the *Local Government Article* of the *Annotated Code of Maryland*, the Commissioners of St. Mary's County are authorized to impose a development impact fee to finance any of the costs for educational, water, sewerage, road, sanitation, solid waste, park, or similar facilities required to accommodate new construction or development; and

WHEREAS, a notice of a public hearing was advertised on _____, 2017, and _____, 2017, in *The Enterprise*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on _____, 2017, to receive public comment and consider the amendment of Chapter 223 of the *Code of St. Mary's County, Maryland*, to repeal and re-enact provisions for a development impact fee; and

WHEREAS, the Commissioners of St. Mary's County find that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to repeal and re-enact provisions for a development impact fee for the purpose and intent of implementing the St. Mary's County Comprehensive Plan by requiring that new development defray the cost to St. Mary's County for additional educational, water, sewerage, road, sanitation, solid waste, park, or similar facilities required to accommodate new construction or development,

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of St. Mary's County, pursuant to §20-707 of the *Local Government Article* of the *Annotated Code of Maryland*, that:

SECTION I. Chapter 223.3 of the *Code of St. Mary's County, Maryland*, is hereby repealed.

SECTION II. Chapter 223.4 of the *Code of St. Mary's County, Maryland*, is repealed and re-enacted to read as follows:

ARTICLE II. – DEVELOPMENT IMPACT FEES

Sec. 223-4.1. Definitions.

When used herein, the following words, terms and phrases, and their derivations, shall have the meaning ascribed to them in this section:

DWELLING UNIT — A room, or rooms connected together, constituting a separate

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independent housekeeping establishment for owner occupancy, or rental or lease on a daily, weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. DWELLING UNIT does not include a structure to replace, renovate, alter or enlarge an existing or previously existing dwelling unit for which a development impact fee was previously paid.

LOT OF RECORD — A parcel of land which has been legally subdivided and recorded in the land records of St. Mary's County, Maryland.

MINOR SUBDIVISION — Defined by the St. Mary's County Subdivision Ordinance as amended from time to time.

PARCEL OF RECORD — An individual parcel of land outside the Chesapeake Bay Critical Area recorded separately in the land records of St. Mary's County, Maryland as of March 15, 1978, or an individual parcel of land within the Chesapeake Bay Critical Area recorded separately in the land records of St. Mary's County, Maryland as of December 1, 1985. Only county or state road rights-of-way which existed on March 15, 1978, shall be considered parcel dividers which divide a parcel into two (2) or more parcels of record.

Sec. 223-4.2 Imposition and collection of development impact fees.

1. An Applicant for a building permit for a dwelling unit on a parcel of record, including a lot of record, shall pay a development impact fee prior to issuance of the permit.
2. The amount of the development impact fee for each fiscal year shall be set in the Appropriation Ordinance adopted as part of the annual budget of the Commissioners of St. Mary's County.
 - a. The amount of the fee in FY2018 shall be .125% of the Cost of Growth, and shall be .25% of the cost of Growth in each fiscal year thereafter.
 - b. The "Cost of Growth" is equal to (a) Capital Assets (the combined "Governmental activities capital assets, net" of the Commissioners of St. Mary's County (Primary Government) and the St. Mary's County Board of Education (St. Mary's County Public Schools" stated in the most recent "Commissioners of St. Mary's County Financial Statements and Supplementary Information with Independent Auditor's Report") multiplied by (b) Rate of Growth (the "Historical and Projected Total Population for Maryland's Jurisdictions - Annualized Growth Rates" for St. Mary's County for

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the applicable fiscal year most recently published by the Maryland Department of Planning).

3. The development impact fee imposed herein is due in addition to any other fee, tax, or special assessment imposed, levied or collected by another governmental entity or agency including, both not limited to:
 1. fees for filing and processing a development application;
 2. fees for inspections pursuant to a regulatory ordinance;
 3. fees collected pursuant to a development rights and responsibility agreement;
 4. fees collected pursuant to Planned Unit Development agreement;
 5. fees to mitigate impacts on the environment;
 6. fees to mitigate inadequate public facilities; or
 7. payments pursuant to an agreement between the Commissioners of St. Mary's County and a property owner or developer for payment of the portion of the cost of a specific public facility attributable to, reasonably related to and roughly proportional to the development.

Sec. 223-4.3. Exemption.

A development impact fee is not required for issuance of a building permit to construct the first three dwelling units on lots in a minor subdivision:

- a. recorded after June 1, 2000, and created from a parcel of record or a lot of record; and
- b. transferred to a natural, direct lineal descendant or a legally adopted child or grandchild.

Sec. 223-4.4. Appropriation of development impact fees.

Funds collected as development impact fees may be appropriated, from time to time, to fund educational, water, sewerage, road, sanitation, solid waste, park, or similar facilities required to accommodate new construction or development.

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Sec. 223-4.5. Development impact fee waiver and deferral.

(1) The Commissioners of St. Mary's County may waive imposition or defer payment for a period not to exceed fifteen (15) years of a development impact fee for a dwelling unit affordable for individuals whose family income in the previous fiscal year was less than sixty percent (60%) of the county median family income as reported by the U.S. Department of Housing and Urban Development, and that do not exceed one thousand five hundred (1,500) square feet of interior space.

(2) A waiver or deferral may be granted only to an entity qualified under §501(c)(3) of the Internal Revenue Code.

(3) An application for a waiver or deferral shall include:

- (a) the applicant's experience in the development or management of workforce housing;
- (b) a description of any housing or related projects previously completed by the applicant;
- (c) financial reports for the five (5) years immediately preceding the application;
- (d) a detailed property management plan that describes the proposed management of the property for the 15-year period that commences on the date the waiver or deferral is granted;
- (e) evidence of all required permits and certificates; and
- (f) such other information as may be required by regulations adopted for administration of the program.

(4) The Director of the Department of Economic Development, the Director of Department of Land Use and Growth Management and the Chief Financial Officer shall meet to review an application and make recommendations to the Commissioners of St. Mary's County.

(5) The owner of a dwelling unit for which a waiver or deferral was granted and which is leased or rented during a calendar year shall file an annual report with the Director of the Department of Economic Development on or before January 31 of the following year. The report shall include the months in the preceding calendar year during which the dwelling unit

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was leased or rented and the rent received for each month.

(6) A waiver or deferral shall be void if:

- (a) an applicant fails to obtain a building permit to construct the dwelling unit for which the waiver or deferral was granted within one (1) year of the date of the grant of the waiver or deferral;
- (b) an applicant fails to obtain a certificate of occupancy for the dwelling unit for which the waiver or deferral was granted within two (2) years of the grant of the waiver or deferral;
- (c) a dwelling unit for which a waiver or deferral was granted is sold within seven (7) years of the grant of the waiver or deferral for a purchase price equal to or less than seventy-five percent (75%) of the county median family income as reported by the U.S. Department of Housing and Urban Development;
- (d) a dwelling unit for which a waiver or deferral was granted is neither owner-occupied nor leased or rented for three (3) consecutive months at a monthly rent equal to or less than eighteen percent (18%) of the county median family income as reported by the U.S. Department of Housing and Urban Development;
- (e) the annual report required herein for a dwelling unit for which a waiver or deferral was granted and that was leased or rented is not filed with the Director of the Department of Economic Development with sixty (60) days of its due date; or
- (f) a development impact fee for which a deferral was granted is not paid on or before the date on which the deferral expires.

(7) If a waiver or deferral becomes void as provided herein, the owner of the dwelling unit for which a waiver or deferral was granted shall immediately pay a development impact fee in the amount of the development impact fee that was waived or deferred or in the amount of the current development impact fee, which is greater, together with an initial administrative charge of five (5) percent of the amount required to be paid, and an additional administrative charge of five (5) percent of the amount required to be paid for each additional calendar month in which the development impact fee and any administrative charge remains unpaid.

(8) Prior to the issuance of a building permit for a dwelling unit for which a waiver or deferral was granted, the owner of the parcel of record, including a lot of record, on which the dwelling unit will be constructed shall record a covenant prepared by the Office of the County Attorney for St. Mary's County reciting:

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- (a) payment of a development impact fee has been waived or deferred;
 - (b) the events which may result in the waiver or deferral becoming void; and
 - (c) the obligations of the owner in the event that the waiver or deferral becomes void.
- (9) The Director of the Department of Economic Development may adopt rules and regulations for the administration of the waiver or deferral of a development impact fee.

Sec. 223-4.6. Development impact fee deferral – Building Trades Program.

The Commissioners of St. Mary's County may waive imposition or defer payment of a development impact fee for a dwelling unit constructed in accordance with a building trades program approved by the St. Mary's County Board of Education until the earlier of:

- (1) one (1) year from the time the fee would otherwise have been payable; or
- (2) the date the dwelling unit is sold and conveyed.

SECTION III. This Ordinance shall be effective upon the date written below.

Those voting Aye: _____

Those voting Nay: _____

Those Abstaining: _____

Date of Adoption: _____

Effective Date: _____

ATTEST:

COMMISSIONERS OF ST. MARY'S COUNTY

Rebecca B. Bridgett
County Administrator

James R. Guy, Commissioner President

Requested by: Department of Finance

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Michael L. Hewitt, Commissioner

Approved as to form and legal
sufficiency:

Tom Jarboe, Commissioner

George R. Sparling
County Attorney

Todd B. Morgan, Commissioner

John E. O'Connor, Commissioner

1. The amount of the development impact fee for each fiscal year shall be set in the Appropriation Ordinance adopted as part of the annual budget of the Commissioners of St. Mary's County.
 - a. The amount of the fee in FY2018 shall be .125% of the Annual Cost of Growth, and shall be .25% of the Annual Cost of Growth in each fiscal year thereafter.
 - b. The "Annual Cost of Growth" is equal to (a) Capital Assets (the combined "Governmental activities capital assets, net" of the Commissioners of St. Mary's County (Primary Government) and the St. Mary's County Board of Education (St. Mary's County Public Schools" stated in the most recent "Commissioners of St. Mary's County Financial Statements and Supplementary Information with Independent Auditor's Report") multiplied by (b) Rate of Growth (the "Historical and Projected Total Population for Maryland's Jurisdictions - Annualized Growth Rates" for St. Mary's County for the applicable fiscal year most recently published by the Maryland Department of Planning).

Auditor's Report (6.30.16)

Primary	272 793 854	
SMCPS	<u>263 776 831</u>	
	536 570 685	Capital Assets (increases/decreases annually by cost of new assets less annual depreciation)
x	<u>.019</u>	Rate of Growth
	10 194 843	Cost of Growth
x	<u>.125%</u>	
	12,744	FY 2018 Development Impact Fee (1 st year-phased in)

Annual Depreciation (FY 2016)

Primary	(11,064,145)
SMCPS	<u>(10,048,945)</u>
	(21,113,090)

Annualized Growth Rates - Maryland Department of Planning

	1970-1980	1980-1990	1990-2000	2000-2010	2010-2015	2015-2020	2020-2025	2025-2030	2030-2035	2035-2040
St. Mary's County	2.37%	2.41%	1.27%	2.01%	1.61%	1.90%	1.86%	1.63%	0.98%	0.91%

REVISED

Year Ended Financials	County Net Capital Assets	BOE Net Capital Assets	Combined	MDP Rate of Growth %	Cost of Growth	Annual Cost %	Annual Calculated Impact Fee	Prior Calculation 2000-18	Difference between Calculations
6/30/2012	224,245,584	236,696,823	460,942,407	1.61%	7,421,173	0.25%	18,553	15,464	3,089
6/30/2013	229,721,777	235,737,785	465,459,562	1.61%	7,493,899	0.25%	18,735	17,392	1,343
6/30/2014	238,741,446	242,028,442	480,769,888	1.61%	7,740,395	0.25%	19,351	19,221	130
6/30/2015	259,708,769	262,965,821	522,674,590	1.90%	9,930,817	0.25%	24,827	21,636	3,191
6/30/2016	272,793,854	263,776,831	536,570,685	1.90%	10,194,843	0.25%	25,487	24,327	1,160
							12,744	1st yr Phase In FY2018	