

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Murat P. Wall
City Attorney

2013 NOV 21 PM 4:31

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION (A) EXTENDING UNTIL DECEMBER 31, 2014 THE EXPIRATION DATE OF PERMITS ISSUED UNDER THE AUTHORITY OF TITLE 17 OF THE OAKLAND MUNICIPAL CODE (PLANNING CODE), CREEK PROTECTION PERMITS ISSUED UNDER THE AUTHORITY OF CHAPTER 13.16 OF THE OAKLAND MUNICIPAL CODE, AND DEVELOPMENT-RELATED TREE PROTECTION PERMITS ISSUED UNDER THE AUTHORITY OF CHAPTER 12.36 OF THE OAKLAND MUNICIPAL CODE THAT OTHERWISE WOULD EXPIRE ON OR PRIOR TO JANUARY 1, 2014 OR DURING 2014, UPON REQUEST AND PAYMENT OF THE ADMINISTRATIVE FEE AND (B) MEMORIALIZING THE LONG-STANDING PRACTICE OF EXTENDING THE TIME FRAME FOR LAND USE RELATED PERMITS THAT HAVE BEEN LITIGATED IN COURT BY THE LENGTH OF THE LITIGATION PERIOD.

WHEREAS, the extraordinary economic downturn, housing market decline, and difficulty in obtaining loans has resulted in construction projects being stalled, despite having completed the planning approval process which often entails substantial costs and time; and

WHEREAS, the City Council wishes to encourage investment and revitalization activities in our neighborhoods and corridors, and encourage the improvement of vacant or underutilized land and deteriorated buildings; and

WHEREAS, Senate Bill 1185, approved by the Governor on July 15, 2008, provided one year extension to approvals of tentative subdivision maps, which allows cities to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry; and

WHEREAS, on July 15, 2009, the Governor signed AB 333, which further extended by 2 years the life of vesting tentative and tentative maps that had not already expired and that otherwise would have expired before January 1, 2012; and

WHEREAS, On July 15, 2011, the Governor signed AB 208, which extends the expiration of tentative maps and vesting tentative maps that would have expired between the bill's passage date and January 1, 2014 and also applies to projects that were extended pursuant to AB 333; and

WHEREAS, On July 11, 2013, the Governor signed AB 116, which extends the expiration of tentative maps and vesting tentative maps that were approved after January 1, 2000 and unexpired as of July 11, 2013 by a period of 2 years; and

WHEREAS, the economic downturn has showed some signs of slow recovery in Oakland, but not to the extent that the vast majority of projects have pulled, or will pull, building permits in 2013; and

WHEREAS, extending the validity of planning- related approvals granted by the City would help retain investment in Oakland at no cost to the City; now, therefore be it

RESOLVED, that the expiration date of permits issued under the authority of the Oakland Municipal Code (CMC) Title 17 (Planning Code), Creek Protection Permits issued under the authority of CMC Chapter 13.16, and Development-Related Tree Protection Permits issued under the authority of OMC Chapter 12.36 expiring on or before January 1, 2014 or during 2014, is hereby extended through December 31, 2014, upon timely request and payment of the administrative extension fee in the Master Fee Schedule (Ordinance No. 12880 CMS), except as provided below; and be it

FURTHER RESOLVED, That this extension shall not apply to properties that (a) have been issued an administrative citation under OMC Chapters 1.08 ("Civil Penalties") and/or 1.12 ("Administrative Citation"); or (b) are the subject of any civil litigation/lawsuits by the City to abate blight, nuisances and/or enforce codes/standards unless (i) the project sponsor has abated the blight, nuisance and/or violations of codes or standards, and paid any and all outstanding fines and penalties prior to the end of the one-year extension time period or in accordance with an approved Compliance Plan, whichever is earlier; and/or (ii) such violations or penalties are under timely appeal. Furthermore, in the event that a property included in a permit that has been extended pursuant to this resolution receives a new notice of violation for blight, nuisance, or violation of codes/standards, an administrative citation, civil penalty, or is involved in litigation as stated above that is not timely corrected, and no timely appeal is filed, the City may terminate said extension; and be it

FURTHER RESOLVED, That this extension shall only apply to active permits -- those under which work has been initiated and diligently pursued or that have not otherwise expired at the time of the extension request -- provided, however, the request for extension was received by the Planning and Building Department on or prior to December 31, 2013; and be it

FURTHER RESOLVED, That the decision to grant an extension is ministerial, but that the appeal section contained in Oakland Municipal Code Chapter 17,132 applies to the administrative determination and interpretations made pursuant to this resolution (with respect to payment of fee, validity of permit, and blight status); and be it

FURTHER RESOLVED, That pursuant to standard City practice, if litigation is filed challenging any land-use related approvals (including planning, creek and development-related tree protection permits, as well as subdivisions), even for those land-use related approvals not requesting extensions, then the time period for obtaining necessary permits for construction or alteration and/or commencement of authorized construction-related activities stated in the Conditions of Approval are automatically extended for the durations of the litigation.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California