

BOROUGH OF EATONTOWN – NOTICE OF ORDINANCE ADOPTION

NOTICE is hereby given that **Ordinance 26-2024** - Ordinance of the Borough of Eatontown Entitled “**ORDINANCE ESTABLISHING THE TIMING OF THE EXPIRATION OF LAND USE APPROVALS**” was passed after a public hearing at the regular meeting of **December 18, 2024** by the Governing Body of the Borough of Eatontown, at 47 Broad Street, Eatontown, NJ 07724. Borough of Eatontown - Julie Martin, RMC, Borough Clerk

ORDINANCE 26-2024

BOROUGH OF EATONTOWN

COUNTY OF MONMOUTH, STATE OF NEW JERSEY

ORDINANCE ESTABLISHING THE TIMING OF THE EXPIRATION OF LAND USE APPROVALS

WHEREAS, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. (the “MLUL”), and specifically N.J.S.A. 40:55D-62, the Borough of Eatontown (“Borough”) is authorized to adopt and amend zoning ordinances and standards; and **WHEREAS**, the MLUL at N.J.S.A. 40:55D-52 a. provides protection from the change of zoning requirements for site plan and subdivision approvals for two years from the date of the adoption of the Resolution of Approval by the municipal Zoning Board or Planning Board; and

WHEREAS, the Borough wants to encourage property owners and/or developers to timely act upon their land use approvals to further enhance the Borough and as such, the Borough Council believes it is in the best interest of the Borough to provide that after the two year protection from the change in zoning requirements set forth in N.J.S.A. 40:55D-52a.. expires, the land use approval also expires unless an extension is granted pursuant to applicable law and that variances granted by Zoning Boards and Planning Boards under N.J.S.A. 40:55D-70 (c) (d) and N.J.S.A. 40:55D-60 without related site plan or subdivision approvals expire after one year if the applicant or property owner does not act on the approval within that year.; and

NOW THEREFORE BE IT ORDAINED, by the BOROUGH COUNCIL OF THE BOROUGH OF EATONTOWN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY that Chapter 89, Article V, Application, Review and Approval Procedures is hereby amended creating a new section 89-17.2 entitled “Timing of Expiration of Land Use Approvals” as follows:

§89.17.2 Expiration of Land Use Approvals

A. Expiration of Variances.

Any variance granted by the Zoning Board or Planning Board pursuant to N.J.S.A. 40:55D-70 c or d and/or N.J.S.A. 40:55D-60 from the terms of the Eatontown Land Use Ordinance Chapter 89 without a related subdivision or site plan approval, permitting the erection or alteration of any structure or structures or permitting a specified use of any premises, shall expire by limitation unless substantial construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such use has actually been commenced, within one year from the date of the resolution of approval of the Zoning Board or Planning Board. If the variances were granted as part of a site plan or subdivision approval, then the variances shall expire along with the site plan or subdivision approval in accordance with Section B below. Except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the Borough Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

B. Expiration of Final Site Plan and Subdivision

Final site plan and subdivision approvals by the Zoning Board or Planning Board subject to N.J.S.A. 40:55D-52a. and/or N.J.S.A. 40:55D-46.1 shall expire by limitation after 2 years, unless building permits have been obtained and/or substantial construction or alteration shall have been commenced, or in the case of a subdivision that the plat or subdivision deed has been filed within the time required by N.J.S.A. 40:55D-52.a and/or N.J.S.A. 40:55D-47. However, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

C. Expiration of Preliminary Site Plan Approval

Preliminary approvals of major site plan and subdivision applications by the Zoning Board and Planning Board shall expire by limitation three years from the date of adoption of the resolution of approval if an application for final approval has not been filed with the applicable Board. Nothing contained herein shall prevent an applicant from requesting an extension of preliminary approval at the same time as the application for final approval is made. The Board shall have the discretion to consider the extension of the preliminary approval first as a threshold question to proceed with the application for final, or to consider both applications simultaneously.

D. Extension of Land Use Approvals

Nothing contained herein shall limit the ability of the Zoning Board or Planning Board to grant extensions of variances, and preliminary or final site plan and or subdivision approvals as provided for in the Municipal Land Use Law upon proper application to the applicable Board by the applicant or property owner.

BE IT FURTHER ORDAINED, that:

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.