

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Worksession:** Expedited Bill 30-12, Taxation – Payments – Subdivision Staging Policy

Expedited Bill 30-12, Taxation – Payments – Subdivision Staging Policy, sponsored by Councilmember Floreen, was introduced on November 13, 2012. A public hearing followed by action is tentatively scheduled for December 11 at 11:30 a.m.

Bill 30-12 would revise the procedure for setting and amending the rates for the transportation mitigation and school facilities payments authorized in the Subdivision Staging Policy. It would conform relevant parts of the County Code to parallel provisions in the recently-adopted Subdivision Staging Policy, contained in Council Resolution 17-601. Specifically, the Bill:

- makes clear that the transportation mitigation payment rate must be set by Council resolution, including the resolution adopting the Subdivision Staging Policy;
- requires the rates of each payment to be indexed to construction cost inflation every 2 years; and
- includes transition language recognizing the shift from PAMR to TPAR in the Subdivision Staging Policy.

Staff Technical Amendments After reviewing the Bill, Council staff suggests several further technical amendments that are needed to conform to the Subdivision Staging Policy and to harmonize analogous provisions governing the transportation mitigation payment and school facilities payment:

On ©2, line 15, replace ~~[[each]]~~ with: 2015 and each later

On ©2, line 19, insert after the period: The Director must publish the amount of this adjustment not later than May 1 of each odd numbered year.

On ©4, line 60, insert after for: to the extent possible,

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Expedited Bill No. 30-12
Concerning: Taxation - Payments -
Subdivision Staging Policy
Revised: 11-9-12 Draft No. 1
Introduced: November 13, 2012
Expires: May 13, 2014
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Floreen

AN EXPEDITED ACT to:

- (1) revise the procedure for setting and amending the rates for the transportation mitigation and school facilities payments authorized in the Subdivision Staging Policy; and
- (2) generally amend the law governing the transportation mitigation and school facilities payments.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-59 and 52-94

Boldface	<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:

1 **Sec. 1. Section 52-59 is amended as follows:**

2 **52-59. Transportation Mitigation Payment.**

- 3 (a) In addition to the tax due under this Article, an applicant for a building
4 permit for any building on which an impact tax is imposed under this
5 Article must pay to the Department of Finance a Transportation
6 Mitigation Payment if that building was included in a preliminary plan
7 of subdivision that was approved under the Transportation Mitigation
8 Payment provisions in the County Subdivision Staging Policy.
- 9 (b) The amount of the Payment for each building must be calculated by
10 multiplying the Payment rate by the total peak hour trips generated by
11 the development.
- 12 (c) The Payment rate [is \$11,300 per peak hour trip, unless modified] must
13 be set by Council resolution, including a resolution that amends the
14 Subdivision Staging Policy. The [Planning Board] Director of Finance
15 must adjust the then-applicable Payment rate as of July 1 of each odd-
16 numbered year by the annual average increase or decrease in a
17 published construction cost index specified by [the Board] regulation
18 for the two most recent calendar [year. The Board must adjust the rate]
19 years to the nearest multiple of \$10. The Council by resolution, after a
20 public hearing advertised at least 15 days in advance, may increase or
21 decrease the Payment rate or set different rates for different types of
22 development.
- 23 (d) The Payment must be paid at the same time and in the same manner as
24 the tax under this Article, and is subject to all provisions of this Article
25 for administering and collecting the tax.
- 26 (e) The Department of Finance must retain funds collected under this
27 Section in an account to be appropriated for transportation

28 improvements that result in added transportation capacity in the area
 29 where the development for which the funds were paid is located.

30 **Sec. 2. Section 52-94 is amended as follows:**

31 **52-94. School Facilities Payment.**

- 32 (a) In addition to the tax due under this Article, an applicant for a building
 33 permit for any building on which a tax is imposed under this Article must
 34 pay to the Department of Finance a School Facilities Payment if that
 35 building was included in a preliminary plan of subdivision that was
 36 approved under the School Facilities Payment provisions in the County
 37 Subdivision Staging Policy.
- 38 (b) The amount of the Payment for each building must be calculated by
 39 multiplying the Payment rate by the latest per-unit student yield ratio for
 40 any level of school found to be inadequate for the purposes of imposing
 41 the School Facilities Payment in the applicable Subdivision Staging Policy
 42 and for that type of dwelling unit and geographic area issued by MCPS.
- 43 (c) The Payment [rate is \$19,514 per elementary school student, \$25,411 per
 44 middle school student, and \$28,501 per high school student, unless
 45 modified] rates must be set by Council resolution. The Director of
 46 Finance must adjust the then-applicable Payment rates as of July 1 of
 47 2015 and each later odd-numbered year, based on the construction cost of
 48 a student seat for each school level as certified by the Superintendent of
 49 Montgomery County Public Schools for the two most recent calendar
 50 years, to the nearest multiple of \$10. The Director must publish the
 51 amount of this adjustment not later than May 1 of each odd numbered
 52 year. The Council by resolution, after a public hearing advertised at least
 53 15 days in advance, may increase or decrease the Payment rate or set
 54 different rates for different types of housing unit.

55 (d) The Payment must be paid at the same time and in the same manner as the
56 tax under this Article, and is subject to all provisions of this Article for
57 administering and collecting the tax.

58 (e) The Department of Finance must retain funds collected under this Section
59 in an account to be appropriated for MCPS capital improvements that
60 result in added student capacity for the affected grade level in the school
61 cluster, or, if no cluster is established, another geographic administrative
62 area, where the development for which the funds were paid is located.

63 **Sec. 3. Expedited Effective Date.** The Council declares that this legislation is
64 necessary for the immediate protection of the public interest. This Act takes effect on
65 January 1, 2013.

66 **Sec. 4. Transition.** Any amendment to County Code Section 52-59 made in
67 Section 1 of this Act does not affect any payment paid, or required to be paid, under
68 Section 52-59 before it was so amended. Any such payment that was not paid, or
69 was not due to be paid, before January 1, 2013, must be paid as if Section 52-59 had
70 not been so amended.

71 *Approved:*

72

Roger Berliner, President, County Council

Date

73 *Approved:*

74

Isiah Leggett, County Executive

Date

75 *This is a correct copy of Council action.*

76

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-12

Taxation - Payments – Subdivision Staging Policy

DESCRIPTION: Revises the procedure for setting and amending the rates for the transportation mitigation and school facilities payments authorized in the Subdivision Staging Policy. Makes clear that the transportation mitigation payment rate must be set by Council resolution, including the resolution adopting the Subdivision Staging Policy. Requires the rates of each payment to be indexed to construction cost inflation every 2 years. Includes transition language recognizing the shift from PAMR to TPAR in the Subdivision Staging Policy

PROBLEM: Need to update County Code provisions regarding transportation mitigation and school facilities payments to reflect changes in the County Subdivision Staging Policy.

GOALS AND OBJECTIVES: Conform County Code provisions to related Subdivision Staging Policy provisions.

COORDINATION: Department of Transportation, Planning Board, Montgomery County Public Schools

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905; Glenn Orlin, Deputy Council Staff Director, 240-777-7936

APPLICATION WITHIN MUNICIPALITIES: Applies County-wide, except in municipalities which have independent planning and zoning authority.

PENALTIES: Not applicable