

Expedited Bill No. 10-07
Concerning: Impact Taxes -
Amendments
Revised: 11-13-07 Draft No. 5
Introduced: May 24, 2007
Enacted: November 13, 2007
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Planning Board

AN EXPEDITED ACT to:

- (1) update and modify certain provisions of the development impact taxes for transportation and school improvements, including the provisions for a School Facilities Payment;
- (2) revise the rates of and use of funds from the School Facilities Payment; and
- (3) generally amend the County impact tax laws.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-47, 52-48, 52-49, 52-53, 52-57, 52-58, 52-89, 52-90, 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:

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52-53. Restrictions on use and accounting of development impact tax funds.

(a) The funds collected by the development impact tax must be used solely to fund County or municipal transportation improvements of the types listed in Section 52-58 located anywhere in the County, except as provided in subsections (c), (h), and (i). In appropriating funds collected by the development impact tax, the Council should, to the extent feasible, designate funds to be used for transportation improvements in the policy area from which the funds were collected or an adjacent policy area. ~~[[In any fiscal year, development impact tax funds may be spent only to the extent that the annual average amount of funds from other County or city sources spent for transportation improvements listed in Section 52-58 during the 3 previous fiscal years exceeds \$12 million.]]~~

* * *

~~[[~~(h) Development impact tax funds collected from a project in a Metro Station Policy Area must be used for impact transportation improvements located in the same Metro Station Policy Area, or in an adjacent Planning Policy Area.~~]]~~

~~[[~~(i)] (h) Development impact tax funds collected from ~~[[a project in]]~~ the Clarksburg impact tax district must be used for impact transportation improvements located in or that directly benefit the Clarksburg policy area.

52-57. Tax rates.

* * *

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77 (b) Any development that receives approval of a preliminary plan of
78 subdivision under any Alternative Review Procedure must pay the tax at
79 double the rate listed in subsection (a). [[However, any development
80 approved under an Alternative Review Procedure that is located in a
81 Metro Station Policy Area must pay the tax at the rate listed in
82 subsection (a) for the same type of development in the General
83 district.]] However, any development approved under an Alternative
84 Review Procedure that is located in a Metro Station Policy Area must
85 pay the tax at 75% of the rate listed in subsection (a) for the same type
86 of development in the General district.

* * *

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88 (d) Any building that would be located within one-half mile of the
89 Germantown, Metropolitan Grove, Gaithersburg, Washington Grove,
90 Garrett Park, or Kensington MARC stations must pay the tax at 85% of
91 the applicable rate calculated in subsection (a).

92 [[d]] (e) The County Council by resolution, after a public hearing advertised
93 at least 15 days in advance, may increase or decrease the rates set in this
94 Section.

95 [[e]] (f) The County Council by resolution, after a public hearing advertised
96 at least 15 days in advance, may increase or decrease the rates set in this
97 Section. The Director of Finance, after advertising and holding a public
98 hearing as required by Section 52-17(c), must adjust the tax rates set in
99 or under this Section on July 1 of each odd-numbered year by the
100 annual average increase or decrease in [[the Consumer Price Index for
101 all urban consumers in the Washington-Baltimore metropolitan area, or
102 any successor index,]] a published construction cost index specified by

103 regulation for the two most recent calendar years. The Director must
104 calculate the adjustment to the nearest multiple of 5 cents for rates per
105 square foot of gross floor area[[,]] or one dollar for rates per dwelling
106 unit. The Director must publish the amount of this adjustment not later
107 than May 1 of each odd numbered year.

108 **52-58. Use of impact tax funds.**

109 Impact tax funds may be used for any:

110 [[(1)]] (a) new road or widening of an existing road that adds highway or
111 intersection capacity or improves transit service or bicycle commuting,
112 such as bus lanes or bike lanes;

113 [[(2)]] (b) new or expanded transit center or park-and-ride lot,

114 [[(3)]] (c) bus added to the Ride-On bus fleet, but not a replacement bus;

115 [[(4)]] (d) new bus shelter, but not a replacement bus shelter;

116 [[(5)]] (e) hiker-biker trail used primarily for transportation;

117 [[(6)]] (f) bicycle locker that holds at least 8 bicycles;

118 [[(7)]] (g) sidewalk connector to a major activity center or along an arterial or
119 major highway; or

120 [[(8)]] (h) [[in a Metro Station Policy Area or an adjacent policy area,]] the
121 operating expenses of any transit or trip reduction program.

122 [[No more than 10% of the funds collected from this tax, other than funds
123 collected in a Metro Station Policy Area, may be spent for the items listed in
124 paragraphs (4) - (8).]]

125 **52-89. Imposition and applicability of tax.**

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127 (c) The tax under this Article must not be imposed on:

128 * * *

129 (5) any development located in an enterprise zone designated by the
 130 State or in an area previously designated as an enterprise zone.

131 **52-90. Tax rates.**

132 * * *

133 (b) The tax on any single-family detached or attached dwelling unit must
 134 be increased by ~~[[\\$1]]~~ \\$2 for each square foot of gross floor area that
 135 exceeds ~~[[4,500]]~~ 3,500 square feet, to a maximum of 8,500 square
 136 feet.

137 * * *

138 (d) Any non-exempt dwelling unit located in a development where at least
 139 30% of the dwelling units are exempt from this tax under Section 52-
 140 89(c)(1)-(4) must pay the tax at 50% of the applicable rate in subsection
 141 (a).

142 ~~[[d)]]~~ (e) The County Council by resolution, after a public hearing advertised
 143 at least 15 days in advance, may increase or decrease the rates set in this
 144 Section.

145 ~~[[e)]]~~ (f) The Director of Finance, after advertising and holding a public
 146 hearing as required by Section 52-17(c), must adjust the tax rates set
 147 in or under this Section on July 1 of each odd-numbered year by the
 148 annual average increase or decrease in ~~[[the Consumer Price Index for~~
 149 ~~all urban consumers in the Washington-Baltimore metropolitan area,~~
 150 ~~or any successor index,]]~~ a published construction cost index specified
 151 by regulation for the two most recent calendar years. The Director
 152 must calculate the adjustment to the nearest multiple of one dollar.
 153 The Director must publish the amount of this adjustment not later than
 154 May 1 of each odd numbered year.

155 **52-94. School Facilities Payment.**

- 156 (a) In addition to the tax due under this Article, an applicant for a building
157 permit for any building on which a tax is imposed under this Article
158 must pay to the Department of Finance a School Facilities Payment if
159 that building was included in a preliminary plan of subdivision that was
160 approved under the School Facilities Payment provisions in the
161 [Annual] County Growth Policy.
- 162 (b) The amount of the Payment for each building must be calculated by
163 multiplying the Payment rate by the latest per-unit student yield ratio for
164 [that] any level of school found to be inadequate for the purposes of
165 imposing the School Facilities Payment in the applicable Growth Policy
166 and for that type of dwelling unit and geographic area issued by MCPS.
- 167 (c) The Payment rate is [\$12,500 per student] ~~[\$32,524]~~ \$19,514 per
168 elementary school student, ~~[\$42,351]~~ \$25,411 per middle school
169 student, and ~~[\$47,501]~~ \$28,501 per high school student, unless
170 modified by Council resolution. The Council by resolution, after a
171 public hearing advertised at least 15 days in advance, may increase or
172 decrease the Payment rate or set different rates for different types of
173 housing unit.
- 174 (d) The Payment must be paid at the same time and in the same manner as
175 the tax under this Article, and is subject to all provisions of this Article
176 for administering and collecting the tax.
- 177 (e) The Department of Finance must retain funds collected under this
178 Section in an account to be appropriated for MCPS capital
179 improvements that result in added student capacity for [[one or more

180 elementary, middle, or high schools where capacity is inadequate in]]
181 the school cluster, or, if no cluster is established, another geographic
182 administrative area, where the development for which the funds were
183 paid is located.

184 [[* * *]]

185 **Sec. 2. Expedited Effective Date.** The Council declares that this
186 legislation is necessary for the immediate protection of the public interest. This Act
187 takes effect on the date when it becomes law.

188 *Approved:*

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Marilyn J. Praisner, President, County Council Date

190 *Approved:*

191

Isiah Leggett, County Executive Date

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

193

Linda M. Lauer, Clerk of the Council Date