

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 62-14, Taxation - Development Impact Taxes – Exemption – Ancillary Facilities

Bill 62-14, Taxation - Development Impact Taxes – Exemption – Ancillary Facilities, sponsored by Council President Rice, is scheduled to be introduced on November 25, 2014. A public hearing is tentatively scheduled for January 13, 2015, at 1:30 p.m.

Bill 62-14 would exempt from development impact taxes certain ancillary facilities in residential developments that do not increase the number of dwelling units in the development and are not open to the public, such as clubhouses, fitness centers, or administration buildings.

This packet contains:	<u>Circle #</u>
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Bill No. 62-14
Concerning: Taxation – Development
Impact Taxes – Exemptions –
Ancillary Facilities
Revised: 11-18-14 Draft No. 1
Introduced: November 25, 2014
Expires: May 25, 2016
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President Rice

AN ACT to:

- (1) exempt from development and school impact taxes certain ancillary facilities in certain residential developments; and
- (2) generally amend the law governing impact taxes.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-49 and 52-89

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:

Sec. 1. Sections 52-49 and 52-89 are amended as follows:

52-49. Imposition and applicability of development impact taxes.

* * *

(h) The development impact tax does not apply to:

(1) any reconstruction or alteration of an existing building or part of a building that does not increase the gross floor area of the building;

(2) any ancillary building in a residential development that:

(A) does not increase the number of dwelling units in that development; and

(B) is used only by residents of that development and their guests, and is not open to the public; and

~~[(2)]~~ (3) any building that replaces an existing building on the same site or in the same project (as approved by the Planning Board or the equivalent body in Rockville or Gaithersburg) to the extent of the gross floor area of the previous building, if:

(A) construction begins within one year after demolition or destruction of the previous building was substantially completed; or

(B) the previous building is demolished or destroyed, after the replacement building is built, by a date specified in a phasing plan approved by the Planning Board or equivalent body.

However, if in either case the development impact tax that would be due on the new, reconstructed, or altered building is greater than the tax that would have been due on the previous building if it were taxed at the same time, the applicant must pay the

28 difference between those amounts.

29 **52-89. Imposition and applicability of tax.**

30 * * *

31 (d) The tax under this Article does not apply to:

32 (1) any reconstruction or alteration of an existing building or part of
 33 a building that does not increase the number of dwelling units of
 34 the building;

35 (2) any ancillary building in a residential development that:

36 (A) does not increase the number of dwelling units in that
 37 development; and

38 (B) is used only by residents of that development and their
 39 guests, and is not open to the public; and

40 [(2)] (3) any building that replaces an existing building on the same site
 41 or in the same project (as approved by the Planning Board or the
 42 equivalent body in Rockville or Gaithersburg) to the extent of the
 43 number of dwelling units of the previous building, if:

44 (A) construction begins within one year after demolition or
 45 destruction of the previous building was substantially
 46 completed; or

47 (B) the previous building is demolished or destroyed, after the
 48 replacement building is built, by a date specified in a
 49 phasing plan approved by the Planning Board or
 50 equivalent body.

51 However, if in either case the tax that would be due on the new,
 52 reconstructed, or altered building is greater than the tax that
 53 would have been due on the previous building if it were taxed at
 54 the same time, the applicant must pay the difference between

55 those amounts.

56 * * *

57 *Approved:*

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Craig L. Rice, President, County Council Date

59 *Approved:*

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Isiah Leggett, County Executive Date

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

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Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 62-14

Taxation - Development Impact Taxes – Exemption – Ancillary Facilities

DESCRIPTION:	Would exempt from development impact taxes ancillary facilities in residential developments that do not increase the number of dwelling units in the development or attract members of the public, such as clubhouses, fitness centers, or administration buildings.
PROBLEM:	Under current interpretations of County law, development impact taxes could be charged for new or enlarged ancillary facilities in residential developments that do not increase the number of units in the development or the traffic to or from the development.
GOALS AND OBJECTIVES:	To clarify the application of the development impact taxes to certain ancillary facilities.
COORDINATION:	Finance Department, Department of Permitting Services
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
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County impact taxes, which apply Countywide.
PENALTIES:	Not applicable.