

Bill No. 7-16
Concerning: Technical Corrections
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Ch. 7, Laws of Mont. Co. 2016

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

AN ACT to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-201

Chapter 2, Administration
Sections 2-42B and 2-43

Chapter 8, Buildings
Section 8-40 and 8-55

Chapter 11B, Contracts and Procurement
Section 11B-1, 11B-33A, and 11B-45

Chapter 20A, Special Obligation Debt
Section 20A-1

Chapter 24, Health and Sanitation
Sections 24-11B and 24-65

Chapter 27, Human Rights and Civil Liberties
Section 27-68

Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property
Sections 30C-4, 30C-5, and 30C-9

Chapter 51, Swimming Pools
Section 51-16A

Chapter 52, Taxation
Sections 52-18V and 52-21

Chapter 53, Taxicabs
Sections 53-213 and 53-235

Chapter 55, Tree Canopy
Section 55-3

By amending, renumbering, renaming, and adding

Chapter 52, Taxation

Article I, General

Sections 52-1, 52-2, 52-3, 52-4, 52-5, 52-6, 52-7, 52-8, 52-9, 52-10, 52-11, 52-12, 52-13, 52-14, 52-15, 52-16, 52-16A, 52-16B, 52-17, 52-18, 52-19, 52-20, 52-21, 52-22, 52-23, and 52-24

Article II, Tax Sales

Sections 52-25, 52-26, 52-27, and 52-28

Article III, Real Property Transfer Tax

Sections 52-29, 52-30, 52-31, 52-32, 52-33, 52-34, 52-35, 52-36, 52-37, and 52-38

Article IV, Development Impact Tax for Transportation Improvements

Sections 52-39, 52-40, 52-41, 52-42, 52-43, 52-44, 52-45, 52-46, 52-47, 52-48, 52-49, 52-50, and 52-51

Article V, Development Impact Tax for Public School Improvements

Sections 52-52, 52-53, 52-54, 52-55, 52-56, 52-57, 52-58, and 52-59

Article VI, Expedited Development Approval Excise Tax

Sections 52-60, 52-61, 52-62, 52-63, 52-64, and 52-65

Article VII, Tobacco Tax

Sections 52-66, 52-67, 52-68, 52-69, 52-70, and 52-71

Article VIII, Excise Tax on Electronic Cigarettes

Sections 52-72, 52-73, 52-74, 52-75, and 52-76

Article IX, Carryout Bag Tax

Sections 52-77, 52-78, 52-79, 52-80, 52-81, 52-82, and 52-83

Article X, Property Tax Credits

Sections 52-84, 52-85, 52-86, 52-87, 52-88, 52-89, 52-90, 52-91, 52-92, 52-93, 52-94, 52-95, 52-96, 52-97, 52-98, 52-99, 52-100, 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, 52-107, and 52-108

2015 Laws of Montgomery County, Chapter 37
Section 3

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:

27 Any reference in this Code or in regulation or other document to
28 "superintendent of police" or "superintendent" means "Director of Police," or
29 "Chief of Police," or "Director[,]" [respectively].

30 **8-40. Credits.**

31 Any person who makes a development approval payment under Section 8-37
32 may reduce that payment by:

- 33 (a) any amount the person paid under Chapter 52 Article [VII] IV
34 (development impact tax for transportation improvements) or Chapter
35 52 Article [VIII] VI ([construction] expedited development approval
36 excise tax) for the building that is the subject of this payment.

37 * * *

38 **8-55. Clean [energy] renewable energy technology required.**

- 39 (a) By [[6 months after date of enactment]] December 10, 2014, the
40 County Executive must establish, by Method 1 Regulation, a Clean
41 Energy Plan that includes a specific amount of on-site clean energy
42 that must be installed on any new or existing County facility. This
43 Plan must include:

44 * * *

45 **11B-1. Definitions.**

46 Unless the context indicates otherwise, the following terms have the
47 following meanings:

48 * * *

49 *County-based bidder or offeror* means a person that has its principal place of
50 business in Montgomery County, as further defined by Executive regulation
51 adopted under Section 11B-8

52 * * *

53 **11B-33A. Wage requirements.**

54 * * *

55 (g) Wage reporting.

56 * * *

57 (2) *Prohibition against retaliation.* Except as provided in
58 paragraph [(3)] (8), a covered employer must not discharge or
59 in any other manner discriminate or retaliate against an
60 employee, who performed direct, measurable work under the
61 contract, because the employee:

62 * * *

63 (3) The prohibition against retaliation under paragraph [(2)] (7)
64 does not apply to an employee who has access to wage
65 information of other employees or applicants as part of the
66 employee's essential job functions and discloses the wages of
67 other employees or applicants to individuals who do not
68 otherwise have access to the information, unless the disclosure
69 is in response to:

70 * * *

71 **11B-45. Disposition of real property.**

72 * * *

73 (e) In addition to the process required under subsection (a), before the
74 disposition of any real property owned or controlled by the County
75 (other than a property which has either nominal value or an appraised
76 value lower than \$100,000) becomes final:

77 * * *

78 The Director must adjust the \$100,000 floor in this subsection on July
79 1 every third year by the percentage increase or decrease in the
80 applicable Consumer Price Index, or any successor index, during the

81 previous 3 calendar years, rounded to the nearest \$1000. The Council
 82 may waive the public hearing required by this subsection if it
 83 concludes that a hearing on a particular proposed disposition is not
 84 necessary to properly assess the proposed action. If the Council does
 85 not act under this subsection within 60 days after the Executive has
 86 submitted the proposed action, the proposed action is automatically
 87 approved. The Council may extend the 60-day deadline by resolution
 88 if the Council President has informed the Executive, within 30 days
 89 after the Executive submitted the proposed action, that the Council
 90 has not received all information necessary to review the proposed
 91 action. If the 60 day deadline would fall during August or from
 92 December 15 through December 31, the deadline is automatically
 93 extended until the next scheduled Council session. This subsection
 94 and subsection (c) do not apply to any disposition of property that will
 95 be used primarily for housing development if the recipient legally
 96 commits to the Director of the Department of Housing and
 97 Community Affairs that at least 30% of the housing units built on the
 98 property will be moderately priced dwelling units or other units that
 99 are exempt from the development impact tax under Section
 100 [52-49(g)(1)-(4)] 52-41(g)(1)-(4).

101 **20A-1. [[Definitions; special obligation debt]] Special Obligation Debt.**

102 * * *

103 **[24-11B] 24-8B. Bodywork Establishments.**

104 * * *

105 **24-65. Members.**

106 * * *

107 (c) The Executive must invite the following to serve as ex officio
 108 members:

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(7) A representative of [the] either the United States Department of Veterans Affairs or the Maryland Department of Veterans Affairs;

27-68. Minimum wage required.

* * *

[(d)] (c)

* * *

30C-4. Administration; rates.

* * *

(b) Every trespass towing company must register with the Office and must file a schedule of its rates for each action connected with the towing or storage of unauthorized vehicles. The Office may disapprove a rate that exceeds a maximum rate set under Section [30C-2] 30C-3.

* * *

(e) A property owner must not order the towing of an unauthorized vehicle unless the property owner has entered into a written contract that authorizes a towing company to tow vehicles from the owner's property. This provision does not apply if the towing company is the record owner of the property from which a vehicle is towed. The property owner and the towing company must keep on file each contract that is in effect, or that was terminated within the previous 12 months. The Office, the Police Department, and the owner of any vehicle towed by the company may inspect and copy any contract during normal business hours. The Office may issue model contracts that meet the requirements of this Chapter.
Any new written contract must include:

135 (1) a statement that the property owner is responsible for posting
136 proper and sufficient signage to notify the public of parking
137 restrictions;

138 (2) a statement that the property owner is responsible for expressly
139 authorizing the towing of a particular vehicle, except as allowed
140 under [30C-5(c)(10)] 30C-5(c)(8), and that the existence of this
141 contract does not constitute express authorization;

142 * * *

143 **30C-5. Public notice; tow procedures.**

144 * * *

145 (c) *Tow procedures.*

146 (1) Except as provided in subsection [(c)(10)] (c)(8), a towing
147 company must not tow a motor vehicle from private property
148 unless the property owner has, directly or through an agent,
149 expressly authorized the towing of the particular vehicle.

150 * * *

151 **30C-9. Redemption and storage procedures.**

152 (a) *Storage of towed vehicles.* A towing company must immediately deliver
153 a towed vehicle directly to a storage site that complies with the
154 following conditions:

155 * * *

156 (5) The storage site must remain open and have personnel on-site for
157 redemption of vehicles [at] 24 hours per day, seven days a week.

158 * * *

159 (e) *Receipt.* Upon receiving payment, a towing company must furnish the
160 vehicle owner a receipt on a form approved by the Office. The receipt
161 must:

162 * * *

163 (4) include photographic evidence of the violation required under
164 subsection [30C-5(c)(11)] 30C-5(c)(9); and

165 * * *

166 **51-16A. Defibrillators.**

167 * * *

168 [(d)] (c) * * *

169 [(e)] (d) * * *

170 **53-213. Additional criteria to deny a license.**

171 * * *

172 (b) The Director may decline to issue or renew a license to any licensee
173 or applicant:

174 * * *

175 (3) who has failed to keep the licensed taxicab in continuous
176 operation as required by Section [53-227] 53-226; or

177 **53-235. Inspections.**

178 * * *

179 (c) Each driver must respond to an oral request within 60 minutes when
180 any trip record required under Section [315] 53-314 is requested
181 during a field investigation by an inspector or law enforcement
182 officer. Each fleet or association must make available a direct
183 telephone line to the Department and the County Police Department
184 on which the fleet or association must transmit any record it possesses
185 of any trip taken or dispatched on the same or the previous day, within
186 60 minutes after any inspector or law enforcement officer requests the
187 record.

188 * * *

189 **55-3. Definitions.**

190 * * *

191 *Person* means:

192 [(a)] (1) to the extent allowed by law, any agency or instrument of the
 193 federal government, the state, any county, municipality, or other
 194 political subdivision of the state, or a unit of any of them;

195 [(b)] (2) an individual, receiver, trustee, guardian, executor, administrator,
 196 fiduciary, or representative of any kind;

197 [(c)] (3) any partnership, firm, common ownership community or other
 198 homeowners' association, public or private corporation, or [a] an
 199 affiliate or subsidiary of any of them; or

200 [(d)] (4) any other entity.

201 **Sec. 2. Articles I (Sections 52-1, 52-2, 52-3, 52-4, 52-5, 52-6, 52-7, 52-8,**
 202 **52-9, 52-10, 52-11, 52-12, 52-13, 52-14, 52-15, 52-16, 52-16A, 52-16B, 52-17,**
 203 **52-18, 52-19, 52-20, 52-21, 52-22, 52-23, and 52 24), II (Sections 52-25, 52-26,**
 204 **52-27, and 52-28), III (Sections 52-29, 52-30, 52-31, 52-32, 52-33, 52-34, 52-35,**
 205 **52-36, 52-37, and 52-38), IV (Sections 52-39, 52-40, 52-41, 52-42, 52-43, 52-44,**
 206 **52-45, 52-46, 52-47, 52-48, 52-49, 52-50, and 52-51), V (Sections 52-52, 52-53,**
 207 **52-54, 52-55, 52-56, 52-57, 52-58, and 52-59), VI (Sections 52-60, 52-61, 52-62,**
 208 **52-63, 52-64, and 52-65), VII (Sections 52-66, 52-67, 52-68, 52-69, 52-70, and**
 209 **52-71), VIII (Sections 52-72, 52-73, 52-74, 52-75, and 52-76), IX (Sections 52-**
 210 **77, 52-78, 52-79, 52-80, 52-81, 52-82, and 52-83), and X (Sections 52-84, 52-85,**
 211 **52-86, 52-87, 52-88, 52-89, 52-90, 52-91, 52-92, 52-93, 52-94, 52-95, 52-96, 52-**
 212 **97, 52-98, 52-99, 52-100, 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, 52-**
 213 **107, and 52-108) are amended, renumbered, renamed, and added as follows:**

214 **Article I. [In] General.**

215 **52-1. Date of finality generally.**

216 * * *

217 **52-2. Date of finality for tax purposes; when taxes due and taxable; date when**
218 **taxes overdue; penalty for late payment of taxes; when improvements**
219 **assessable.**

220 * * *

221 **[52-3. Reserved.]**

222 **[52-4] 52-3. Annual levy.**

223 * * *

224 **[52-4A] 52-4. Authorization to issue an estimated personal property tax bill.**

225 * * *

226 **52-5. Abatement of small amounts of tax due.**

227 * * *

228 **52-6. Tax anticipation certificates-Authority of council to issue; purpose; sale.**

229 * * *

230 **52-7. Tax anticipation certificates for county property taxes.**

231 * * *

232 **52-8. Certification of payment of taxes; fees; liability for errors, etc.**

233 * * *

234 In addition, the director of finance shall charge and collect a fee which shall
235 be established by the county executive by written regulation adopted under method
236 (3) of section 2A-15 of this Code for each certification of payment or nonpayment
237 of any farmland transfer tax due under [section 52-21] Section 52-31.

238 All such certifications shall certify the taxes that are paid or unpaid
239 according to the records of the county but neither the director of finance nor any
240 official authorized by him to make such certificate shall be personally liable for
241 any error in such certificate unless the error be caused by his willful, capricious or
242 fraudulent act. In the event of the failure to list on such certificate unpaid taxes for
243 the period covered by such certificate, or the failure to list properly payment or
244 nonpayment of the farmland transfer tax due under [section 52-21] Section 52-31,
245 the liability of the county on such certificate shall be limited to the amount of such

246 unpaid taxes, interest and penalties.

247 **52-9. Listing and assessment of personal property.**

248 * * *

249 **[52-9A] 52-10. Assessment of certain machinery and equipment.**

250 * * *

251 **[52-10] 52-11. Manufacturing machinery and farm implements exempt from**
 252 **personal property taxes.**

253 * * *

254 **52-12. Special revenue tax on trailer coach parks.**

255 * * *

256 **52-13. Special mass transit facilities tax.**

257 * * *

258 **52-14. Fuel-energy tax.**

259 * * *

260 **52-15. Telephone tax.**

261 * * *

262 **52-16. Room rental and transient tax.**

263 * * *

264 **52-16A. Admissions and amusement tax.**

265 * * *

266 **52-16B. Recordation Tax.**

267 * * *

268 **[52-16C. Reserved.]**

269 **52-17. Additional taxing powers; prohibited taxes.**

270 * * *

271 **52-18. Appeal tax court.**

272 * * *

273 **[52-18B] 52-19. Moderate-income multifamily rental housing facility real**
 274 **property tax deferral.**

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276 **[52-18C] 52-20. Residential real property tax deferral-Government-initiated**
277 **rezonings.**

278

* * *

279 **[52-18D] 52-21. Excise tax, property lien.**

280

* * *

281 **[52-18F] 52-22. Residential real property tax referral-General.**

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283 (h) *Limits on Deferrals.* The accumulation of deferred taxes and accrued
284 interest must not exceed [50 percent] 50% of the full cash value of the
285 property, as determined by the Supervisor of Assessments, or a lesser
286 amount elected by the taxpayer and specified in the agreement
287 required under subsection (l). When the maximum amounts have been
288 reached, those amounts may continue to be deferred until any of the
289 events specified in subsection (k) occur. An owner who receives a tax
290 deferral under this Section must not also receive a tax deferral under
291 Section [52-18C] 52-20.

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293

294 **[52-18G] 52-23. Property tax refund-Disabled veterans and blind persons.**

295

* * *

296 **[52-18M] 52-24. Payments in lieu of taxes for certain housing developments.**

297

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298

Article [IV] II. Tax Sales.

299 **[52-36] 52-25. Sale of property for taxes generally.**

300

* * *

301 **[52-37] 52-26. Purchase of property by county; issuance of certificates of**
302 **indebtedness, etc.**

303

* * *

304 [52-38] 52-27. Sale of properties purchased by county at public auction.

305 * * *

306 [52-39] 52-28. Describing owners as heirs of a named person; conveyance to
307 devisees or heirs of purchaser.

308 * * *

309 Article [II] III. Real Property Transfer Tax.

310 [52-19] 52-29. Definitions.

311 * * *

312 (a) *Consideration*: Such term shall include everything of value included
313 in the actual price paid or to be paid to a transferor or to a third party
314 on behalf of a transferor for the property transferred, including, but
315 not limited to, cash, bonds, stock, documents evidencing monetary
316 value, choses in action, property either real or personal, payment by
317 way of fees, labor or services, instruments of credit, notes, deeds of
318 trust, mortgages, assumption of liability for debt incurred by another
319 and cancellation of a debt. Consideration shall be presumed to be not
320 less than the total full cash value of the property based on the most
321 recent notice of assessment. For the purposes of the farmland transfer
322 tax contained in [section 52-21(d)] Section 52-31(d), consideration for
323 the transfer of land previously assessed as farmland shall be presumed
324 to be not less than the total full cash value as computed by the
325 supervisor of assessments at the request of the director of finance, as
326 if the land were not assessed as farmland. These presumptions may be
327 rebutted by clear and convincing evidence. The director may make a
328 final determination of consideration pursuant to [section 52-25]
329 Section 52-36 of the Code.

330 (b) *Transfer*: The acts of the parties, or act or operation of law, by which:

331 (1) The title to property or a leasehold interest in property is

332 conveyed from a person, firm, corporation, legal entity, or government agency to
333 another; or

334 (2) Real property subject to [section 52-21] Section 52-31 is
335 transferred to a government agency on the assessment records and removed from
336 the tax rolls under the laws of eminent domain.

337 * * *

338 **[52-20] 52-30. Authority to levy tax.**

339 * * *

340 **[52-21] 52-31. Levied; amount.**

341 * * *

342 (e) * * *

343 "Rezoned to a more intensive use" does not include:

344 (1) A zoning from a residential zone to a[,] residential floating zone
345 if the approved floating zone plan, including any amendments
346 to the plan, does not increase the total number of permitted
347 dwelling units and does not permit commercial or industrial
348 uses, but the transfer must be subject to any tax otherwise due
349 under this subsection if at any time an amendment to the
350 floating zone plan increases the total number of permitted
351 dwelling units or permits commercial or industrial uses;

352 * * *

353 (g) On cooperative housing, [four (4) percent] 4% of the value of the
354 consideration for the initial transfer of stock or other evidence of
355 membership in a cooperative housing corporation or similar entity
356 where such stock corresponds to a residential unit which is being
357 converted from rental status to a system of cooperative housing
358 corporation ownership under which title to a multi-unit residential
359 facility is held by a corporation, the shareholders or members of

360 which, by virtue of such ownership or membership, are entitled to
361 enter into an occupancy agreement for a particular residential unit.

362 * * *

363 (6) The tax levied by this subsection shall be paid prior to the
364 actual transfer of the stock or other evidence of membership.
365 The tax shall be paid to the county at the office of the director
366 of finance and shall be evidenced by the affixing of an official
367 stamp upon the stock certificate, membership certificate or
368 other instrument of conveyance, showing the amount of the tax
369 paid. At the time of payment, the person paying such tax shall
370 present to the director, in a form prescribed by the director, a
371 signed statement setting forth the actual and true value of the
372 consideration for the transfer. The person paying the tax shall
373 be given a receipt for such payment. This paragraph shall be
374 applicable to this subsection only and shall supersede any of the
375 provisions of [section 52-22] Section 52-32, to the extent they
376 are inconsistent.

377 * * *

378 **[52-22] 52-32. When payable; evidence of payment on conveyance; receipt for**
379 **payment.**

380 * * *

381 **[52-23.] 52-33. Conveyances not to be accepted for recordation unless**
382 **stamped.**

383 * * *

384 **[52-24] 52-34. Certain transfers exempt from tax.**

385 * * *

386 (a) (1) A transfer of any interest in property is not subject to tax if the
387 property is transferred to:

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(2) However, an exemption must not be granted to a transferor under Section [52-21(d)] 52-31(d) unless the transferor is a nonprofit hospital or nonprofit religious or charitable organization, association or corporation, or a municipal, County or State government or an instrumentality, agency or political subdivision thereof.

* * *

[52-24A] 52-35. Deferred payment.

* * *

[52-25] 52-36. Consideration or valuation understated.

* * *

[52-26] 52-37. Refund of tax when transfer not effected.

* * *

[52-27] 52-38. Penalty for violation of article.

* * *

[Article V. Reserved.

52-40. Reserved.]

Article [VII] IV. Development Impact Tax for Transportation Improvements.

[52-47] 52-39. Definitions.

* * *

Impact tax district means a planning policy area or combination of planning policy areas described under Section [52-49(c)] 52-41(c).

Impact tax district transportation program means the transportation improvement program described under Section [52-58] 52-50.

Impact transportation improvement means an improvement listed in Section [52-58] 52-50.

* * *

[52-48] 52-40. Findings; purpose and intent.

417

* * *

418

[52-49] 52-41. Imposition and applicability of development impact taxes.

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420

(b) An applicant for a building permit must pay a development impact tax

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in the amount and manner provided in this Article, unless a credit in

422

the full amount of the applicable tax applies under Section [52-55]

423

52-47 or an appeal bond is posted under Section [52-56] 52-48.

424

* * *

425

[52-50] 52-42. Collection of development impact taxes.

426

* * *

427

(c) The Department of Permitting Services must not issue a building

428

permit for development that is not exempt from the development

429

impact tax unless:

430

(1) the applicant has paid the applicable development impact tax;

431

(2) the applicant is entitled to a credit under Section [52-55] 52-47

432

in the amount of the applicable development impact tax; or

433

(3) an appeal has been taken and a bond or other surety posted

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under Section [52-56] 52-48.

435

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436

(f) If any person fails to pay the tax due under Section [52-51] 52-43, that

437

person is liable for:

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* * *

439

(j) Section [52-18D] 52-21 applies to this tax. The lien imposed under

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this Article has the same priority and may be enforced in the same

441

manner as a lien imposed in case of nonpayment of County real

442

property taxes.

443

* * *

444

The rate of the tax or Payment due is the rate in effect when the tax or

445

Payment is paid. A permittee may appeal the imposition or calculation of

446 the tax or Payment under Section [52-56] 52-48. If the Department of
447 Permitting Services or a municipality revokes or suspends a building permit
448 or issues a stop-work order solely because the permittee did not pay any tax
449 or Payment due under this Article, the permittee or any other party must not
450 appeal the permit revocation or suspension or the stop work order issuance,
451 or any modification of either, under Chapter 8. If the appealing party posts a
452 bond or other sufficient surety satisfactory to the County Attorney as
453 provided in Section [52-56] 52-48, the Department or municipality must
454 reissue or reinstate the building permit or revoke the stop-work order.

455 **[52-51] 52-43. Calculation of development impact tax.**

456 (a) The Department of Permitting Services must calculate the amount of
457 the applicable development impact tax due for each building permit
458 by:

459 (1) determining the applicable impact tax district and whether the
460 permit is for development that is exempt from the tax under
461 Section [52-49(f)] 52-41(f);

462 * * *

463 (3) determining the applicable tax under Section [52-57] 52-49;
464 and

465 * * *

466 (c) If the type of proposed development cannot be categorized under the
467 definitions of nonresidential and residential in Section [52-47] 52-39,
468 the Department must use the rate assigned to the type of development
469 which generates the most similar traffic impact characteristics.

470 * * *

471 **[52-52] 52-44. Annual report.**

472 * * *

473 (b) a list of each building exempted from the tax during the previous

474 calendar year under Section [52-49(g)] 52-41(g) or taxed at a rate of
475 \$0 under Section [52-57] 52-49, and the tax that otherwise would have
476 been paid for that building; and

477 * * *

478 **[52-53] 52-45. Restrictions on use and accounting of development impact tax**
479 **funds.**

480 (a) The funds collected by the development impact tax must be used
481 solely to fund County or municipal transportation improvements of
482 the types listed in Section [52-58] 52-50 located anywhere in the
483 County, except as provided in subsections (c) and (h). In
484 appropriating funds collected by the development impact tax, the
485 Council should, to the extent feasible, designate funds to be used for
486 transportation improvements in the policy area from which the funds
487 were collected or an adjacent policy area.

488 * * *

489 (d) The Department of Finance must maintain and keep adequate
490 financial records for each account that must:

491 * * *

492 (3) Ensure that the disbursement of funds from each account is
493 used exclusively for the financing of the transportation
494 improvements listed in Section [52-58] 52-50.

495 * * *

496 **[52-54] 52-46. Refunds.**

497 (a) Any person who has paid a development impact tax may apply for a
498 refund of the impact tax if:

499 (1) the County has not appropriated the funds for impact
500 transportation improvements of the types listed in Section
501 [52-58] 52-50, or otherwise formally designated a specific

502 improvement of a type listed in Section [52-58] 52-50 to
503 receive funds, by the end of the sixth fiscal year after the tax is
504 collected;

505 * * *

506 (d) The Director of Permitting Services must investigate each claim and
507 hold a hearing if the petitioner requests a hearing. Within 3 months
508 after receiving a petition for refund of the impact tax, the Director of
509 Permitting Services must provide the petitioner, in writing, with a
510 decision on the impact tax refund request. The decision must include
511 the reasons for the decision, including, as appropriate, a determination
512 of whether impact tax funds collected from the petitioner, calculated
513 on a first-in-first-out basis, have been appropriated or otherwise
514 formally designated for impact transportation improvements of the
515 types listed in Section [52-58] 52-50 within 6 fiscal years. If a refund
516 of the impact tax is due the petitioner, the Director of Permitting
517 Services must notify the Department of Finance and, if the property is
518 located in Gaithersburg or Rockville, the finance director of that city.

519 * * *

520 **[52-55] 52-47. Credits.**

521 * * *

522 (b) A property owner must receive a credit for constructing or
523 contributing to an improvement of the type listed in Section [52-58]
524 52-50 if the improvement reduces traffic demand or provides
525 additional transportation capacity. However, the Department must not
526 certify a credit for any improvement in the right-of-way of a State
527 road, except a transit or trip reduction program that operates on or
528 relieves traffic on a State road or an improvement to a State road that
529 is included in a memorandum of understanding between the County

and either Rockville or Gaithersburg.

* * *

[52-56] 52-48. Appeals.

* * *

[52-57] 52-49. Tax rates.

* * *

[52-58] 52-50. Use of impact tax funds.

* * *

[52-59] 52-51. Transportation Mitigation Payment.

* * *

Article [XII] V. Development Impact Tax for Public School Improvements.

[52-87] 52-52. Definitions.

In this Article all terms defined in Section [52-47] 52-39 have the same meanings, and the following terms have the following meanings:

* * *

[52-88] 52-53. Findings; purpose and intent.

* * *

[52-89] 52-54. Imposition and applicability of tax.

(a) An applicant for a building permit for a residential development must pay a development impact tax for public school improvements in the amount and manner provided in this Article before a building permit is issued for any residential development in the County unless:

- (1) a credit for the entire tax owed is allowed under Section [52-93] 52-58; or
- (2) an appeal bond is posted under Section [52-56] ~~[[52-47]]~~ 52-48.

(b) Except as expressly provided in this Article, this tax must be levied, collected, and administered in the same way as the tax imposed under Article [VII] IV. All provisions of Article [VII] IV apply to this tax unless the application of that Article would be clearly inconsistent

559 with any provision of this Article. This tax is in addition to the tax
560 imposed under Article [VII] IV, and any tax paid under this Article
561 must not be credited against any tax due under Article [VII] IV.

562 * * *

563 (e) If the type of proposed development cannot be categorized under the
564 residential definitions in Section [52-47] 52-39 and [52-87] 52-52, the
565 Department must use the rate assigned to the type of residential
566 development which generates the most similar school enrollment
567 characteristics.

568 **[52-90] 52-55. Tax rates.**

569 * * *

570 (d) Any non-exempt dwelling unit located in a development where at
571 least 30% of the dwelling units are exempt from this tax under Section
572 [52-89(c)(1)-(4)] 52-54(c)(1)-(4) must pay the tax at 50% of the
573 applicable rate in subsection (a).

574 * * *

575 **[52-91] 52-56. Accounting; use of funds.**

576 * * *

577 **[52-92] 52-57. Refunds.**

578 (a) Except as provided in this Section, Section [52-54] 52-46 applies to
579 any petition for a refund of taxes paid under this Article. Subsections
580 [52-54(a)(1)] 52-46(a)(1) and (d) do not apply to taxes paid under this
581 Article.

582 (b) Any person who has paid a tax under this Article may apply for a
583 refund of the tax if the County has not appropriated the funds for
584 public school improvements of the types listed in Section [52-91(d)]
585 52-56(d) by the end of the sixth fiscal year after the tax is collected.

586 (c) The Director of Permitting Services must investigate each claim and

587 hold a hearing at the request of the petitioner. Within 3 months after
 588 receiving a petition for refund, the Director must provide the
 589 petitioner, in writing, with a decision on the refund request. The
 590 Director must specify the reasons for the decision, including, if a
 591 refund is claimed under subsection (b), a determination of whether
 592 funds collected from the petitioner, calculated on a first-in-first-out
 593 basis, have been appropriated or otherwise formally designated for
 594 public school improvements of the types listed in Section [52-91(d)]
 595 52-56(d) within 6 fiscal years.

596 **[52-93] 52-58. Credits.**

597 (a) Section [52-55] 52-47 does not apply to the tax under this Article. A
 598 property owner must receive a credit for constructing or contributing
 599 to an improvement of the type listed in Section [52-91(d)] 52-56(d),
 600 including costs of site preparation. A credit must not be allowed for
 601 the cost of any land dedicated for school use, including any land on
 602 which the property owner constructs a school.

603 * * *

604 (c) MCPS must:

605 * * *

606 (3) determine whether the improvement is a public school
 607 improvement of the type listed in Section [52-91(d)] 52-56(d),

608 * * *

609 (e) (1) A property owner must receive a credit for constructing or
 610 contributing to the cost of building a new single family
 611 residence that meets Level I Accessibility Standards, as defined
 612 in Section [52-18U(a)] 52-107(a).

613 * * *

614 (3) Application for the credit and administration of the credit be in

615 accordance with Subsections [52-18U(e)] ~~[[52-108(e)]]~~
616 52-107(e) and (f).

617 * * *

618 **[52-94] 52-59. School Facilities Payment.**

619 * * *

620 **Article [VIII] VI. Expedited Development Approval Excise Tax.**

621 **52-60. Payment**

622 * * *

623 **52-61. Rates.**

624 * * *

625 **52-62. Exemptions.**

626 * * *

627 **52-63. Credits.**

628 Any person who pays an expedited development approval tax under Section
629 52-60 may reduce that tax by:

630 (a) any amount the person paid under Article [VII] IV (development
631 impact tax) for any building that is the subject of this tax; and

632 * * *

633 **52-64. Payments.**

634 * * *

635 **[52-64A] 52-65. Collection and administration; interest and penalties;
636 violation; lien; annual report; use of funds.**

637 (a) The provisions of Section [52-50] 52-42, except subsection (c), apply
638 to the payment and collection of the expedited development approval
639 excise tax as if it were the development impact tax.

640 * * *

641 **Article [XI] VII. Tobacco Tax.**

642 **[52-81] 52-66. Definitions.**

643 * * *

644 **[52-82] 52-67. Imposition of tax.**

645 * * *

646 **[52-83] 52-68. Tobacco Tax - Exemption.**

647 * * *

648 **[52-84] 52-69. Enforcement.**

649 * * *

650 **[52-85] 52-70. Overdue tax - interest.**

651 If the vendor does not pay the tax when due under Section [52-76(e)]
652 52-67(e), the vendor must pay to the Director, in addition to the tax due, interest at
653 the rate of one percent for each month or fraction of a month that the tax is
654 overdue.

655 **[52-86] 52-71. Penalties.**

656 (a) If a vendor does not pay the tobacco tax when due under Section
657 [52-76(e)] 52-67(e), the vendor is subject to a Class C civil penalty for
658 each taxable tobacco product for which a tax has not been paid.

659 * * *

660 (d) Section [52-18D] 52-21 applies to the tobacco tax imposed under this
661 Article.

662 **Article [XIII] VIII. Excise Tax on Electronic Cigarettes.**

663 **[52-95] 52-72. Definitions.**

664 * * *

665 **[52-96] 52-73. Tax levied; rate.**

666 * * *

667 **[52-97] 52-74. Remittance.**

668 (a) The tax levied under Section [52-96] 52-73 is due and payable for
669 each month on the last day of the next month.

670 * * *

671 (c) If any dealer transports or causes to be transported into the County an
672 electronic cigarette product, that dealer is liable for the payment of the

673 tax imposed under Section [52-96] 52-73 unless that dealer obtains
674 from the supplier of the electronic cigarette product a written
675 certification, in a form approved by the Director, that the supplier is
676 liable for and is paying the tax.

677 **[52-98] 52-75. Cessation of business.**

678 * * *

679 **[52-99] 52-76. Collection; interest and penalties; violation.**

680 (a) If any person does not pay the Director the tax due under Section
681 [52-96] 52-73, that person is liable for:

682 * * *

683 (c) Every person liable for any tax under Section [52-96] 52-73 must
684 preserve for 3 years suitable records necessary to determine the
685 amount of the tax. The Director may inspect and audit the records at
686 any reasonable time.

687 (d) Any failure to pay the tax when due under Section [52-97] 52-74, and
688 any violation of this Section [52-97] 52-74 or this Section, is a Class
689 A violation. Each violation is a separate offense. A conviction under
690 this subsection does not relieve any person from paying the tax.

691 (e) Section [52-18D] 52-21 applies to this tax.

692 **[52-100. Reserved.]**

693 **Article [XIV] IX. Carryout Bag Tax.**

694 **[52-101] 52-77. Definitions**

695 * * *

696 **[52-102] 52-78. Tax imposed.**

697 * * *

698 (b) Each retail establishment that provides a carryout bag to a customer
699 must collect the amount of the tax imposed under subsection (a) when
700 the customer makes any payment for goods in person, through the

701 Internet, by telephone, by facsimile, or by any other means. The retail
702 establishment must hold the taxes required to be collected under this
703 Section in trust for the County until remitted as required under Section
704 [52-103] 52-79.

705 * * *

706 **[52-103] 52-79. Remittance.**

707 (a) Except as provided in subsection (b), on or before the 25th of each
708 month, each retail establishment must remit the full amount of the tax
709 collected for all carryout bags provided to a customer during the
710 previous month, less the amount retained under Section [52-102(c)]
711 52-78(c).

712 (b) A retail establishment is only required to remit the taxes to the
713 Director when the cumulative taxes collected under [section
714 52-102(a)] Section 52-78(a) since the previous remittance, if any,
715 exceeds \$100.

716 * * *

717 **[52-104] 52-80. Interest and penalties.**

718 (a) If a retail establishment does not remit to the Director any tax owed
719 under Section [52-103] 52-79 when due, the retail establishment is
720 liable for:

721 * * *

722 **[52-105] 52-81. Prohibited conduct.**

723 * * *

724 **[52-106] 52-82. Regulations.**

725 * * *

726 **[52-107] 52-83. Enforcement.**

727 * * *

728 **Article X. Property Tax Credits.**

729 **[52-11] 52-84. Real property tax credits for permanently and totally disabled**
 730 **homeowners.**

731 * * *

732 **[52-11A] 52-85. Homeowners property tax credit.**

733 * * *

734 **[52-11B] 52-86. Credit to offset certain income tax revenues.**

735 * * *

736 **[Article III] 52-87. Scenic Easement Tax Credit.**

737 **[52-28. Definitions.] (a) Definitions.** * * *

738 **[52-29. Tax credit generally.] (b) Tax credit generally.** * * *

739 **[52-30. Basic requirements.] (c) Basic requirements.** To qualify for a tax credit,
 740 the following basic requirements must be met:

741 [(a)] (1) * * *

742 [(b)] (2) * * *

743 [(c)] (3) * * *

744 [(d)] (4) * * *

745 [(e)] (5) * * *

746 [(f)] (6) * * *

747 **[52-31. Standards and categories of credits.] (d) Standards and categories of**
 748 **credits.** * * *

749 [(a)] (1) * * *

750 [1.] (A) * * *

751 [2.] (B) * * *

752 [a.] (i) * * *

753 [b.] (ii) * * *

754 [(b)] (2) * * *

755 [1.] (A) * * *

756 [2.] (B) * * *

757 [a.] (i) * * *

758 [b.] (ii) * * *

759 [52-32. Determination and duration of tax credit.] (e) Determination and
760 duration of tax credit. * * *

761 [(a)] (1) * * *

762 [(b)] (2) * * *

763 [(c)] meets the basic requirements, together with the standards of one
764 of the categories in [Section 52-31] paragraph (d).

765 * * *

766 [52-33. Valuation, assessment and condemnation.] (f) Valuation, assessment,
767 and condemnation. * * *

768 [52-34. Application for tax credit.] (g) Application for tax credit.

769 (1) The owner of such real property or his duly authorized agent
770 [shall] must on or before [sixty (60)] 60 days [prior to] before
771 the annual date of finality or semi-annual date of finality,
772 whichever may be applicable, file with the [county council]
773 County Council a claim for such tax credit in such form as may
774 be required by the [council] Council. [Such] Any application
775 [shall] must include a description of the property on which the
776 scenic easement is to be granted and [shall] must be signed by
777 all owners, holders of encumbrances, and other parties in
778 interest. The [county council shall then] County Council must
779 determine whether the property conforms to and meets the basic
780 requirements and standards of one of the categories provided in
781 [section 52-31] paragraph (d). If it does, the applicant [shall]
782 must then submit a scenic easement deed and a certificate of
783 title prepared by a member of the bar of the court of appeals of
784 Maryland showing the effect of such easement [upon] on the

785 land described therein. [Such] Any easement [shall] must not be
786 preceded by any prior interest to secure a debt or otherwise
787 which would affect the priority of [such] the easement.

788 (2) If deemed necessary by the [council] Council, a survey by a
789 registered land surveyor or professional engineer may be
790 required[; if]. If required, [such] the survey [shall] must show
791 the land described, the location of the improvements thereon,
792 the area of land subject to the easement, and a site location
793 sketch showing its relation to the geographical features which
794 relate to its scenic and open space value. The expense of this
795 survey and the title certificate may be assumed by the grantee
796 or the [county council] County Council in its discretion, if a
797 request is made therefor in the original application. The [county
798 council shall then] County Council must either accept the
799 scenic easement and grant the tax credit or reject the application
800 and deny the credit. If the [council] Council accepts the
801 easement, the tax credit [shall become] becomes effective upon
802 recordation of the deed in the land records of the [county]
803 County. The [county council shall] County Council must issue
804 an appropriate notice to be delivered by the landowner to the
805 [director of finance] Director of Finance.

806 [52-35. Interpretation.] (h) Interpretation. * * *

807 [Article VI] 52-88. Historic Preservation Tax Credit.

808 [52-41. Tax credit generally.] (a) Tax credit generally. * * *

809 [52-42. Qualifications for tax credit.] (b) Qualifications for tax credit.

810 [(a)] (1) * * *

811 [(1)] (A) * * *

812 [(2)] (B) * * *

813 [(A)] (i) * * *

814 [(B)] (ii) * * *

815 [(3)] (C) * * *

816 [(4)] (D) * * *

817 [(b)] (2) * * *

818 [(1)] (A) * * *

819 [(2)] (B) * * *

820 **[52-43. Use of tax credit.] (c) Use of tax credit.**

821 [(a)] (1) The tax credit is [25 percent] 25% of the taxpayer's qualified

822 expenses under [section 52-42] paragraph (b).

823 [(b)] (2) * * *

824 **[52-44. Application for tax credit; appeals.] (d) Application for tax credit;**

825 **appeals.**

826 [(a)] (1) * * *

827 [(1)] (A) * * *

828 [(2)] (B) An application must include receipts and an oath or

829 affirmation by the taxpayer that the receipts are for

830 qualified expenses under [section 52-42] paragraph (b).

831 [(3)] (C) * * *

832 [(4)] (D) * * *

833 [(5)] (E) The County Director of Finance may require

834 additional information and documentation from the

835 taxpayer, and may reject all or part of the claimed

836 expenses for lack of adequate documentation or if the

837 claimed expenses do not qualify under [section 52-42]

838 paragraph (b). The Director must notify the taxpayer of

839 the Director's decision on the application.

840 [(b)] (2) * * *

841 **[52-45. Penalties.]** (e) Penalties.

842 [(a)] (1) * * *

843 [(b)] (2) * * *

844 **[52-46. Regulations.]** (f) Regulations. * * *

845

846 **[Article IX] 52-89. Conservation Land Tax Credit.**

847 **[52-65. Definitions.]** (a) Definitions.

848 * * *

849 [(a)] * * *

850 [(b)] * * *

851 **[52-66. Amount of credit.]** (b) Amount of credit.

852 [(a)] (1) * * *

853 [(b)] (2) * * *

854 [(1)] (A) * * *

855 [(2)] (B) * * *

856 **[52-67. Allowance and duration of tax credit.]** (c) Allowance and duration of tax
857 credit.

858 [(a)] (1) * * *

859 [(b)] (2) * * *

860 [(c)] (3) * * *

861 [(1)] (A) * * *

862 [(2)] (B) * * *

863 [(3)] (C) * * *

864 [(d)] (4) * * *

865 [(e)] (5) If a conservation easement referenced in Section
866 [52-65(a)(2)(A)] 52-89(a)(2)(A) is terminated, or if a land trust
867 sells conservation land subject to a resale agreement to any
868 person other than a government agency or another land trust,

869 the owner of the land must repay the County all credits allowed
 870 under this Article and interest computed at the rate applicable to
 871 unpaid taxes when the taxes were due.

872 **[52-68. Administration of tax credit.]** (d) Administration of tax credit.

- 873 [(a)] (1) * * *
- 874 [(b)] (2) * * *
- 875 [(c)] (3) * * *
- 876 [(d)] (4) * * *

877 **[Article X] 52-90. New Jobs Tax Credit and Enhanced New Jobs Tax Credit.**

878 **[52-69. Tax credits.]** (a) Tax credits. * * *

879 **[52-70. Definitions.]** (b) Definitions. * * *

- 880 [(a)] * * *
- 881 [(b)] * * *
- 882 [(c)] * * *
- 883 [(d)] * * *

884 **[52-71. Eligibility for tax credit.]** (c) Eligibility for tax credit.

- 885 [(a)] (1) * * *
- 886 [(1)] (A) * * *
- 887 [(2)] (B) * * *
- 888 [(b)] (2) * * *
- 889 [(1)] (A) * * *
- 890 [(2)] (B) * * *
- 891 [(c)] (3) * * *
- 892 [(1)] (A) * * *
- 893 [(2)] (B) * * *
- 894 [(3)] (C) * * *
- 895 [(4)] (D) * * *
- 896 [(5)] (E) * * *

897 [(d)] (4) * * *

898 **[52-72. Amount of tax credit; pass-through to lessees.]** (d) Amount of tax credit;
 899 pass-through to lessees.

900 [(a)] (1) * * *

901 [(1)] (A) * * *

902 [(2)] (B) * * *

903 [(3)] (C) * * *

904 [(b)] (2) * * *

905 [(1)] (A) * * *

906 [(2)] (B) * * *

907 [(c)] (3) * * *

908 **[52-73. Recapture of tax credit.]** (e) Recapture of tax credit.

909 [(a)] (1) * * *

910 [(b)] (2) * * *

911 [(c)] (3) * * *

912 **[52-74. Administration of tax credit.]** (f) Administration of tax credit.

913 [(a)] (1) * * *

914 [(b)] (2) * * *

915 [(c)] (3) * * *

916 [(1)] (A) * * *

917 [(2)] (B) * * *

918 [(3)] (C) * * *

919 [(d)] (4) * * *

920 [(e)] (5) * * *

921 **[Article XI] 52-91. Brownfields Property Tax Credit.**

922 **[52-75. Definitions.]** (a) Definitions. * * *

923 [(a)] * * *

924 [(b)] * * *

925 [(c)] * * *
 926 [(d)] * * *
 927 [(e)] * * *
 928 [(f)] * * *
 929 [(g)] * * *
 930 [(h)] * * *
 931 [(i)] * * *
 932 [(j)] * * *

933 **[52-76. Participation.] (b) Participation.** * * *

934 **[52-77. Property Tax Credits.] (c) Property tax credits.**

935 [(a)] (1) * * *
 936 [(b)] (2) * * *
 937 [(1)] (A) * * *
 938 [(2)] (B) * * *

939 **[52-78. Applicability.] (d) Applicability.** The tax credits in [Section 52-77]
 940 paragraph (c) apply for:

941 [(a)] (1) * * *
 942 [(b)] (2) * * *

943 **[52-79. Contribution to Fund.] (e) Contribution to Fund.** * * *

944 **[52-80. Termination of Credit.] (f) Termination of credit.** * * *

945 [(a)] (1) * * *
 946 [(b)] (2) * * *

947 **[52-11C] 52-92. Property tax credit — senior citizens of limited income.**

948 (a) The Director of Finance must allow a tax credit each year against the
 949 general County tax and all special service area taxes imposed on any
 950 real property that is owned by, and is the principal residence of, an
 951 individual who:

952 (1) is at least 65 years old; and

953 (2) qualifies to receive either the state Homeowners' Property Tax
 954 Credit or the County supplement to the Homeowners' Property
 955 Tax Credit under Section [52-11A] 52-85, or both.

956 (b) For each taxable year, the credit under this Section equals 50% of the
 957 total state and County credit awarded for that tax year under state law
 958 and Section [52-11A] 52-85.

959 * * *

960 **[52-18A] 52-93. Tax credit for certain nonprofit organizations.**

961 * * *

962 **[52-18E] 52-94. Day care property tax credit.**

963 * * *

964 **[52-18H] 52-95. Personal property tax-Research and development exemption.**

965 * * *

966 **[52-18I] 52-96. Property tax credit-Leased property-Religious organizations.**

967 * * *

968 **[52-18J] 52-97. Property tax credit for Audubon Naturalist Society**

969 * * *

970 **[52-18K] 52-98. Property tax credit - fire sprinkler systems.**

971 * * *

972 **[52-18L] 52-99. Property tax credits - arts and entertainment district.**

973 * * *

974 **[52-18N] 52-100. Property tax credit — surviving spouse of law enforcement
 975 officer or rescue worker.**

976 * * *

977 **[52-18O] 52-101. Home computer telecommuting incentive.**

978 * * *

979 **[52-18P] 52-102. Property tax credit — nonprofit swim clubs.**

980 * * *

981 **[52-18Q] 52-103. Property tax credit — energy and environmental design.**

982 * * *

983 **[52-18R] 52-104. Property tax credit — renewable energy.**

984 * * *

985 **[52-18S] 52-105. Property tax credit — publicly sponsored business incubator.**

986 * * *

987 **[52-18T] 52-106. Property tax credit — accessibility features.**

988 * * *

989 **[52-18U] 52-107. Property tax credit — level I and level II accessibility**
990 **standards.**

991 * * *

992 (c) *Amount of Credit.* The tax credit permitted by this Section must be as
993 follows:

994 (1) For features meeting Level I Accessibility Standards, certified
995 costs of up to \$3,000 less any credit received against the
996 Development Impact Tax for School Improvements under
997 Section [52-93] 52-58 for those features and less any funds or
998 assistance received for the accessibility feature.

999 (2) For features meeting Level II Accessibility Standards, certified
1000 costs of up to \$10,000 less any credit received against the
1001 Development Impact Tax for School Improvements under
1002 Section [52-93] 52-58 for those features and less any funds or
1003 assistance received for the accessibility feature.

1004 * * *

1005 **[52-18T] 52-108. Burtonsville Enterprise Zone Property.**

1006 * * *

1007 **[52-18W] 52-109. Property tax credit — reduced rent for elderly or disabled**
1008 **tenants.**

1009 * * *

