

MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney
Glenn Orlin, Deputy Council Staff Director

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

Expedited Bill 30-12, Taxation – Payments – Subdivision Staging Policy, sponsored by Councilmember Floreen, is scheduled to be 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. 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.

This packet contains:

Expedited Bill 30-12
Legislative Request Report

Circle #

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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

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

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

52-94. School Facilities Payment.

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

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

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

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

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

Approved:

Roger Berliner, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

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