

Resolution No.: 17-1267
Introduced: November 25, 2014
Adopted: November 25, 2014

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 3-14, Design for Life Tax Incentives

Background

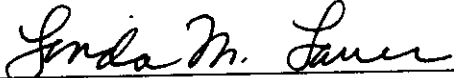
1. On October 2, 2014, the Council received Executive Regulation 3-14, Design for Life Tax Incentives. The proposed regulation would implement Bill 5-13, Property Tax Credit – Accessibility Features, as amended by Bill 24-14, Property Tax Credit – Accessibility Features – Eligible Features. These bills established a property tax credit for an accessibility feature installed on an existing residence, provided for a property tax credit for meeting a Level I or Level II accessibility standard on a new single family residence; and provided for an impact tax credit against the Development Impact Tax for Public School Improvements for meeting a Level I accessibility standard.
2. The Council reviewed the regulation under Method (2). Under Method (2), if the Council does not approve or disapprove a regulation within 60 days after the Council receives the regulation, it is automatically approved and takes effect the day after the deadline for approval or a later date specified in the regulation.
3. On October 27, the Government Operations and Fiscal Policy Committee reviewed the proposed regulation and recommended approval.

Action

The County Council for Montgomery County Maryland approves the following resolution:

The Council approves Executive Regulation 3-14, Design for Life Tax Incentives.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive. 101 Monroe Street.

Subject: Design for Life Tax Incentives	Number: 3-14
Originating Department: DEPARTMENT OF PERMITTING SERVICES	Effective Date: November 25, 2014

Montgomery County Regulation on:

DESIGN FOR LIFE TAX INCENTIVES

DEPARTMENT OF PERMITTING SERVICES

Issued by: County Executive
Regulation No.

COMCOR No. 52.18T.01, 52.18U.01, and 52.93.01

Authority: Montgomery County Code (2004) Sections 52-18T, 52-18U, 2A-14
Supersedes: N/A

Council review: Method 2 under Code Section 2A-15

SUMMARY: This Executive Regulation describes the implementation of County Council Bill 5-13 Property Tax Credit – Accessibility Features; effective July 1, 2014.

STAFF CONTACT: Reginald Jetter, Chief
Division of Customer Service
240-777-6275

ADDRESS: Department of Permitting Services
255 Rockville Pike, Second Floor
Rockville, Maryland 20850

BACKGROUND INFORMATION: The Department of Permitting Services and the Department of Health and Human Services developed a voluntary Design for Life program to encourage builders to construct homes with two levels of accessibility for which there is no existing Executive Regulation. Bill No. 5-13 as amended by Bill No. 24-14 provides property tax credit and Development Impact Tax for School Improvement credit incentives for homeowners and builders who install accessible features in addition to the two levels of accessibility in the Design for Life Program. This Executive Regulation describes procedures for implementation of Bill No. 5-13 as amended by Bill No. 24-14.



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COMCOR 52.18T.01, 52.18U.01, and 52.93.01 Design for Life Tax Incentives

52.18T.01.01 and 52.18U.01.01 Definitions

The definitions in this section clarify the words and phrases used in Sections 52-18T and 52-18U of the Montgomery County Code.

Accessible means design of features described in Sections 52-18T and 52-18U of the Montgomery County Code and meeting the clearances and specifications provided to allow for movement with mobility aids.

Accessible bedroom means a bedroom that may be accessed by an accessible route.

Accessible circulation path means an interior way of passage from one room to another that can accommodate a wheelchair or other mobility aid.

Accessible door means a primary accessibility entry door that provides a clear width opening of 32 inches or more.

Accessible kitchen means a kitchen that can accommodate a wheelchair or other mobility aid and meets the specifications in Section 52-18T of the Montgomery County Code for a usable kitchen.

Accessible route means an interior or exterior circulation path at least 36 inches wide that provides a clear width of walking surface from a no step building entrance to at least one usable powder room or bathroom and one other room that can accommodate visitation. The accessible route shall extend from a vehicular drop off or parking to a no step building entrance.

Agreement means the School Impact Tax Credit Agreement between the Department of Permitting Services and the property owner to construct or contribute to the cost of building a single family residence that meets Level I Accessibility Standard as defined in Section 52-18U(a) of the Montgomery County Code.

Alternative design means the use of designs, products, or technologies such as an elevator, lift or stair glide unit as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility, usability or visitability.

Building entrance means any entrance that allows passage to the visit-able portion of the building (front door, back door, side door [any door], deck or through the garage door on an accessible route.)



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Building permit means any permit required by the Department, City of Gaithersburg, or City of Rockville

Date of submission of application means the date that the application is stamped in and accepted by the Department.

Existing residence means an owner's principal residence when an accessibility feature is installed in a previously constructed one or two family dwelling or an apartment/condominium unit in multi-family dwellings.

Department means the Department of Permitting Services or its designee.

Full bathroom means a bathroom that contains at least one sink, one toilet, and a shower or tub which can accommodate a wheelchair or other mobility aid and meets the specifications in Section 52-18T of the Montgomery County Code for a bathroom on the accessible level.

Main living space means the area of the residence that includes a room that can accommodate visitation. (Minimum floor area should be 70 sq. ft.)

Owner's Principal Residence means the residence for which the "Occupancy" box for the property's real property tax bill reads "Principal Residence".

Permanent Additions include permanent modifications for accessibility features to existing or new construction.

Reasonable costs to install the accessibility features or permanent modifications include any required permit or inspection fees.

Seller includes a builder, developer, real estate agent, real estate broker, or homeowner.

Sensory disability means an impairment of one of the senses including visual or hearing impairments.

Single family residence includes one and two family dwellings, townhouses and duplexes covered by IRC.

Usable powder room means a room containing at least one sink and one toilet and large enough to accommodate a clear space 2 feet 6 inches by 4 feet within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed.



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Usable bathroom means a room containing at least one sink, one toilet and a shower or tub and large enough to accommodate a clear space 2 feet 6 inches by 4 feet within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed.

52.18T.01.02 Application for Tax Credit for Accessibility Features

- A. An applicant for a property tax credit for accessibility features may submit one tax credit application each tax year.
- B. The following documents must be submitted with the tax credit application:
 - 1. Copy of the building permit which includes accessibility features;
 - 2. Contracts, receipts, or invoices which demonstrate the cost or amount of money spent on the purchase and installation of accessibility features including any required permit or inspection fees; and
 - 3. Other subsidies.
 - (a) Copies of applications for any other subsidy from governmental, quasi-governmental, or non-profit entities providing tax credits or grants for accessibility features and receipts for any subsidies received; or
 - (b) An affidavit that no other subsidies for accessibility features have been received by the applicant or previous owner of the property.
- C. Properties in the City of Rockville and City of Gaithersburg.
In addition to the required documents in subsection B, applicants whose properties are located in the City of Rockville or the City of Gaithersburg must also submit a signed affidavit from the applicable City that all necessary inspections have been completed and that the City verifies that the accessibility features have been installed in accordance with the building permit issued.

52.18T.01.03 Processing of Accessibility Features Building Permit Applications

The Department will fast track the processing of all building permit applications for accessibility features. The Department will review the building permit application in accordance with procedures in effect at the time of application.

52.18T.01.04 Certification of Tax Credit for Accessibility Features

- A. The Department will review the application for Tax Credit for Accessibility Features to verify:



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1. That the accessibility features as shown on the building permit were constructed in compliance with the Montgomery County Code and the Maryland Accessibility Code. The Department shall prepare The Design for Life Guidelines as an aid.
 2. The amount of the credit requested is in compliance with Section 52-18T of the Montgomery County Code;
 3. Eligible costs were incurred within 12 months before the property owner submitted the application;
 4. Eligible costs were paid by the applicant and not, or will not be, reimbursed by any entity;
 5. Applicant is the homeowner as listed on Maryland State Tax Assessment records; and
 6. That the request for tax credit is less any subsidy received from a governmental, quasi-governmental, or non-profit entity for the feature.
- 52.18T.01.05 Limits on Amounts of Credits Granted**
- A. The Department of Finance must keep a list of all credits granted pursuant to Section 52-18T of the Montgomery County Code in the order in which the Department certifies the credit. The certification date for a particular property is the date when the Department completes its certification pursuant to Section 51.18T.01.04.
 - B. If the total of all tax credits granted under Section 52-18T exceeds \$100,000, subsequent tax credits must be carried over to the next tax year.
- 52.18U.01.02 Application for Tax Credit for Level I or Level II Accessibility Standard**
- A. An applicant for a property tax credit for Level I or Level II accessibility standard may submit one tax credit application each tax year.
 - B. The following documents must be submitted with the tax credit application:
 1. Copy of the building permit which includes accessibility features;
 2. A copy of the Impact Tax Credit Certification Agreement for the property;
 3. Contracts, receipts, or invoices which demonstrate the cost or amount of money spent on the purchase and installation of accessibility features including any required permit or



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- inspection fees; and
- 4. Other subsidies.
 - (a) Copies of applications for any other subsidy from governmental, quasi-governmental, or non-profit entities providing tax credits or grants for accessibility features and receipts for any subsidies received; or
 - (b) An affidavit that no other subsidies for accessibility features have been received by the applicant or previous owner of the property.

C. Amended application.

If the property does not receive a credit in accordance with the Agreement and Section 52-93 of the Montgomery County Code, then the current property owner may submit an amended application. The costs incurred may relate back to the date of the building permit for the new single family residence even though those costs were not incurred within 12 months prior to the filing of the amended application.

52.18U.01.03 Processing of Level I and Level II Applications

The Department will fast track the processing of all building permit applications for accessibility features which will meet Level I or Level II Accessibility Standard. The Department will review the building permit application in accordance with procedures in effect at the time of application.

52.18U.01.04 Certification of Tax Credit for Level I or II Accessibility Standards

A. The Department will review the application for Tax Credit for Level I or Level II Accessibility Standards to verify:

1. That the accessibility features meeting Level I or Level II Accessibility Standards, as shown on the building permit were constructed in compliance with the Montgomery County Code and the Maryland Accessibility Code. The Department shall prepare The Design for Life Guidelines as an aid.
2. The amount of the credit requested is in compliance with Section 52-18U of the Montgomery County Code;
2. Eligible costs were incurred within 12 months before the property owner submitted the application;
3. Eligible costs were paid by the applicant and not, or will not be, reimbursed by any entity;



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4. Applicant is the homeowner as listed on Maryland State Tax Assessment records; and
5. That the request for tax credit is less any subsidy received from a governmental, quasi-governmental, or non-profit entity for the feature.

52.18U.01.05 Design For Life Builder/Homeowner and Project Certification Program

- A. The Design For Life Builder/Homeowner and Project Certification Program is a clearinghouse for architects, builders and developers who have achieved the Level I and II Accessibility Standards certifications for property tax credits and credits to Development Impact Taxes for School Improvements.
- B. The Department will design, develop, administer and evaluate this program in collaboration with its partners: Commission on People with Disabilities; Maryland National Capital Building Industry; Montgomery County Builders Association; National Association of The Remodeling Industry, Potomac Valley Architect's Association; Montgomery County Board of Realtors; Department of Health and Human Services; and Department of Finance.
- C. Certification. Architects, builders and projects may apply for platinum, gold, silver or bronze certification based upon the number of units or projects that have achieved Level I or II Accessibility Standards. Participation in the certification program is voluntary.
 1. Bronze – if at least 5% of the single family residences built in the project meet Level I or Level II;
 2. Silver – if at least 10% of the single family residences built in the project meet Level I or Level II;
 3. Gold – if at least 25% of the single family residences built in the project meet Level I or Level II;
 4. Platinum – if at least 30% of the single family residences built in the project meet Level I or Level II.
- D. The Department will recommend annual awards from the County Executive and County Council to those persons or companies receiving bronze, silver, gold, and platinum certifications.

52.18U.01.06 Limits on Amount of Credits Granted



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- A. The Department of Finance must keep a list of all credits granted pursuant to Section 52-18U of the Montgomery County Code in the order in which the Department certifies the credit. The certification date for a particular property is the date when the Department completes its certification pursuant to Section 51.18U.01.04.
- B. If the total of all tax credits granted under Section 52-18T exceeds \$500,000, subsequent tax credits must be carried over to the next tax year.

52.93.01.01 Certification of Development Impact Tax for School Improvements Credits

- A. The Development Impact Tax for School Improvements Credits applies to new single family residences only.
- B. In order to receive an impact tax credit in accordance with Section 52-93(e) of the Montgomery County Code, the property owner must enter into an Impact Tax Credit Certification Agreement prior to issuance of any building permits for properties included in the Agreement. If the project is phased, the property owner must enter into a Master Agreement and a separate Agreement for each phase. A credit determination will be identified in each phase with a running cumulative total for the entire project. The project is the total number of units as shown on the preliminary plan or site plan, as applicable, regardless of how many phases it includes.
- C. The Department will determine the amount of credit based on bronze, silver, gold, or platinum participation level as defined in Section 52.18U.01.05.C.
- D. The Department will collect the total amount due of the Development Impact Tax for School Improvements for applicants requesting Development Impact Tax for School Improvements credits for Level I and Level II Accessibility Standards if improvements have not yet been constructed, inspected and approved by the Department. The full amount of the credit will be determined at the time of project completion. Once improvements have been constructed, inspected and approved by the Department, a percentage of the credit will be refunded to the applicant as stated in the Impact Tax Credit Certification Agreement.
- E. If a portion or all of the agreed upon Level I and Level II improvements have been made prior to payment of the Development Impact Tax for School Improvements, the Department will credit the percentage of the tax as stated in the Impact Tax Credit Certification Agreement prior to the tax payment.



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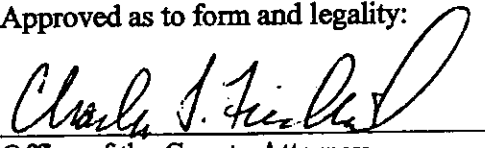
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- F. The Department will track all credits for Development Impact Tax for School Improvements in its automated permitting system and apply them towards taxes due for the building permits approved for Level I and II Accessibility Standards. The credit will be refunded in accordance with Section 52-93(e) of the Montgomery County Code and the Agreement.
- G. If the property owner does not meet the participation level in the Agreement upon completion of the project, the Department will re-determine the amount of credit due and refund the appropriate amount.


Isiah Leggett, County Executive

10/2/14
Date

Approved as to form and legality:


Office of the County Attorney

2 September 2014
Date