

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: November 21, 2007  
 Effective: December 1, 2007  
 Sunset Date: None  
 Ch. 16, Laws of Mont. Co. 2007

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the request of the Planning Board

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**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

<b>Boldface</b>	<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:*

CLERK'S NOTE: Technical correction – duplicate sentence eliminated.

1           **Sec. 1. Sections 52-47, 52-48, 52-49, 52-53, 52-57, 52-58, 52-89, 52-90, and**  
2 **52-94 are amended as follows:**

3 **52-47.           Definitions.**

4 In this Article the following terms have the following meanings:

5 *Adequate Public Facilities Ordinance (APFO)* means Section 50-35(k).

6 *Adequate Public Facilities Ordinance [staging ceiling] policy area transportation*  
7 *adequacy standards* means standards by which the area-wide adequacy of  
8 transportation facilities serving a proposed development are judged. APFO [staging  
9 ceiling] *policy area transportation adequacy* standards do not include requirements  
10 for other on-site or off-site transportation improvements that may be separately  
11 required or standards relating to local area review which may be independently  
12 required.

13   \*       \*       \*

14 [*Bioscience facility* means any biological research and development or manufacturing  
15 facility that substantially involves research, development or manufacturing of:

- 16           (1)   biologically active molecules,
- 17           (2)   devices that employ or affect biological processes,
- 18           (3)   devices and software for production or management of specific  
19               biological information, or
- 20           (4)   products or materials that purify or handle biologically active products;]

21 *Bioscience facility* means any biological research and development or manufacturing  
22 facility that substantially involves research, development or manufacturing of:

- 23           (1)   biologically active molecules,
- 24           (2)   devices that employ or affect biological processes,

25 (3) devices and software for production or management of specific  
26 biological information, or

27 (4) products or materials that purify or handle biologically active products;

28 \* \* \*

29 Social service provider: a locally-based, federally tax-exempt nonprofit direct  
30 provider of social services whose primary service area is Montgomery County.

31 [*Staging ceiling* means the maximum amount of land development that can be  
32 accommodated in a planning policy area consistent with APFO staging ceiling  
33 standards given the programmed transportation facilities.]

34 **52-48. Findings; purpose and intent.**

35 \* \* \*

36 (g) The County retains the power to determine the impact transportation  
37 improvements to be funded by development impact taxes; to estimate  
38 the cost of such improvements; to establish the proper timing of  
39 construction of the improvements so as to meet APFO [*staging ceiling*]  
40 policy area transportation adequacy standards where they apply; to  
41 determine when changes, if any, may be necessary in the County CIP;  
42 and to do all things necessary and proper to effectuate the purpose and  
43 intent of this Article.

44 \* \* \*

45 **52-49. Imposition and applicability of development impact taxes.**

46 \* \* \*

47 (g) A development impact tax must not be imposed on:

48 \* \* \*

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

51 \* \* \*

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

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

66 \* \* \*

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

71 **[[i)]** (h) Development impact tax funds collected from **[[a project in]]** the  
72 Clarksburg impact tax district must be used for impact transportation

73 improvements located in or that directly benefit the Clarksburg policy area.

74 **52-57. Tax rates.**

75 \* \* \*

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

86 \* \* \*

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

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

94 [[e)] (f) The Director of Finance, after advertising and holding a public  
95 hearing as required by Section 52-17(c), must adjust the tax rates set in  
96 or under this Section on July 1 of each odd-numbered year by the  
97 annual average increase or decrease in [[the Consumer Price Index for  
98 all urban consumers in the Washington-Baltimore metropolitan area, or

99 any successor index,]] a published construction cost index specified by  
100 regulation for the two most recent calendar years. The Director must  
101 calculate the adjustment to the nearest multiple of 5 cents for rates per  
102 square foot of gross floor area[[,]] or one dollar for rates per dwelling  
103 unit. The Director must publish the amount of this adjustment not later  
104 than May 1 of each odd numbered year.

105 **52-58. Use of impact tax funds.**

106 Impact tax funds may be used for any:

107 ~~[[1]]~~ (a) new road or widening of an existing road that adds highway or  
108 intersection capacity or improves transit service or bicycle commuting,  
109 such as bus lanes or bike lanes;

110 ~~[[2]]~~ (b) new or expanded transit center or park-and-ride lot,

111 ~~[[3]]~~ (c) bus added to the Ride-On bus fleet, but not a replacement bus;

112 ~~[[4]]~~ (d) new bus shelter, but not a replacement bus shelter;

113 ~~[[5]]~~ (e) hiker-biker trail used primarily for transportation;

114 ~~[[6]]~~ (f) bicycle locker that holds at least 8 bicycles;

115 ~~[[7]]~~ (g) sidewalk connector to a major activity center or along an arterial or  
116 major highway; or

117 ~~[[8]]~~ (h) ~~[[in a Metro Station Policy Area or an adjacent policy area,]]~~ the  
118 operating expenses of any transit or trip reduction program.

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

122 **52-89. Imposition and applicability of tax.**

123 \* \* \*

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

125 \* \* \*

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

128 **52-90. Tax rates.**

129 \* \* \*

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

134 \* \* \*

135 (d) Any non-exempt dwelling unit located in a development where at least  
 136 30% of the dwelling units are exempt from this tax under Section 52-  
 137 89(c)(1)-(4) must pay the tax at 50% of the applicable rate in subsection  
 138 (a).

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

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

152 **52-94. School Facilities Payment.**

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

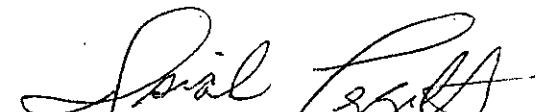
184 [[\* \* \*]]

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 December 1, 2007.


188 *Approved:*

189  11/16/07  
Michael J. Knapp, Vice President, County Council Date

190 *Approved:*

191  Nov 21, 2007  
Isiah Leggett, County Executive Date

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

193  11/27/07  
Linda M. Lauer, Clerk of the Council Date