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, 52-52, 52-53, 52-57, 52-58, 52-89, 52-90, and 52-94

The County Council for Montgomery County, Maryland approves the following Act:

CLERK'S NOTE: Technical correction – duplicate sentence eliminated.
Sec. 1. Sections 52-47, 52-48, 52-49, 52-53, 52-57, 52-58, 52-89, 52-90, and
52-94 are amended as follows:

52-47. Definitions.

In this Article the following terms have the following meanings:

_Adequate Public Facilities Ordinance (APFO)_ means Section 50-35(k).

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

* * *

_Bioscience facility_ means any biological research and development or manufacturing facility that substantially involves research, development or manufacturing of:

(1) biologically active molecules,

(2) devices that employ or affect biological processes,

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

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

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(2) devices that employ or affect biological processes.
(3) devices and software for production or management of specific biological information, or

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

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

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

52-48. Findings; purpose and intent.

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

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

(g) A development impact tax must not be imposed on:
any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone.

*   *   *


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

*   *   *

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

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

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

52-57. Tax rates.

* * *

(b) Any development that receives approval of a preliminary plan of subdivision under any Alternative Review Procedure must pay the tax at double the rate listed in subsection (a). However, any development approved under an Alternative Review Procedure that is located in a Metro Station Policy Area must pay the tax at the rate listed in subsection (a) for the same type of development in the General district. However, any development approved under an Alternative Review Procedure that is located in a Metro Station Policy Area must pay the tax at 75% of the rate listed in subsection (a) for the same type of development in the General district.

* * *

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

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

[(e)] (f) The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section on July 1 of each odd-numbered year by the annual average increase or decrease in the Consumer Price Index for all urban consumers in the Washington-Baltimore metropolitan area, or
any successor index,] a published construction cost index specified by regulation for the two most recent calendar years. The Director must calculate the adjustment to the nearest multiple of 5 cents for rates per square foot of gross floor area[,] or one dollar for rates per dwelling unit. The Director must publish the amount of this adjustment not later than May 1 of each odd numbered year.

52-58. Use of impact tax funds.

Impact tax funds may be used for any:

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

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

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

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

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

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

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

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

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

52-89. Imposition and applicability of tax.

* * *

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

* * *
any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone.

**Tax rates.**

* * *

The tax on any single-family detached or attached dwelling unit must be increased by $2 for each square foot of gross floor area that exceeds 3,500 square feet, to a maximum of 8,500 square feet.

* * *

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

The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates set in this Section.

The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section on July 1 of each odd-numbered year by the annual average increase or decrease in the Consumer Price Index for all urban consumers in the Washington-Baltimore metropolitan area, or any successor index, a published construction cost index specified by regulation for the two most recent calendar years. The Director must calculate the adjustment to the nearest multiple of one dollar. The Director must publish the amount of this adjustment not later than May 1 of each odd numbered year.
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 [Annual] County Growth 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 [that] any level of school found to be inadequate for the purposes of imposing the School Facilities Payment in the applicable Growth Policy and for that type of dwelling unit and geographic area issued by MCPS.

(c) The Payment rate is [$12,500 per student] [[$32,524]] $19,514 per elementary school student, [[$42,351]] $25,411 per middle school student, and [[$47,501]] $28,501 per high school student, unless modified by Council resolution. 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 [[one or more]
elementary, middle, or high schools where capacity is inadequate 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. 2. Expedited Effective Date. The Council declares that this
legislation is necessary for the immediate protection of the public interest. This Act
takes effect on December 1, 2007.

Approved:

Michael J. Knapp, Vice President, County Council

Approved:

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council