

Bill No. 36-07  
Concerning: Development Districts -  
Amendments  
Revised: 4-3-08 Draft No. 3  
Introduced: December 4, 2007  
Enacted: October 14, 2008  
Executive: October 27, 2008  
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Sunset Date: None  
Ch. 34, Laws of Mont. Co. 2008

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Trachtenberg and Council President Praisner

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**AN ACT** to revise the County development district law and conform related provisions of certain tax laws.

By amending

Montgomery County Code  
Chapter 14, Development Districts

Chapter 52, Taxation  
Sections 52-54 and 52-55

<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:*

1           **Sec. 1. Chapter 14 is amended as follows:**

2   **14-2.           Purposes.**

3           (a)    The purposes of this Chapter are to:

4   \*       \*       \*

5                   (2)   authorize the issuance of bonds or other obligations of the County  
6   that are payable from special assessments or special taxes  
7   collected, ~~[[or tax increments created,]]~~ in a development district;

8   \*       \*       \*

9   **14-3.           Definitions.**

10           In this Chapter the following words have the following meanings:

11   ~~[[\*       \*       \*]]~~

12           ~~[[a)]] Adequate Public Facility~~ means any infrastructure improvement  
13   required by the Planning Board as a condition of approving a  
14   preliminary plan of subdivision under Section 50-35(k) or identified in  
15   the ~~[[Annual]]~~ County Growth Policy as necessary for adequate public  
16   facilities approval in a development district.

17           ~~[[b)]]~~   \*       \*       \*

18   Administrative Expense means any expense incurred by any County  
19   department or office in connection with the administration or funding of  
20   a development district, including:

21                   (1)   any expense directly related to levying and collecting any special  
22   tax, special assessment, fee, or charge under this Chapter;

23                   (2)   any expense of complying with any arbitrage rebate requirement  
24   or disclosure requirement under federal or state law;

25                   (3)   an allocable share of the salary of any County employee who is  
26   primarily responsible for the administration or funding of a  
27   development district;

- 28 (4) an allocable share of County administrative overhead related to
- 29 the administration and funding of a development district; and
- 30 (5) the fees and expenses of any fiscal agent employed by the County
- 31 in connection with development district bonds.

32 ~~[(c)]~~ *Bond* means a special obligation or revenue bond, note, or similar  
 33 instrument issued under this Chapter or any other law if the  
 34 indebtedness evidenced thereby will be repaid from revenue generated  
 35 by special assessments, special taxes, fees, or charges levied under this  
 36 Chapter~~[[, or special funds established under the Tax Increment~~  
 37 ~~Financing Act,]]~~ in a development district.

38 ~~[(d)]~~ *Cost* means the aggregate dollar cost of:

- 39 \* \* \*
- 40 (3) financing charges and interest before and during construction
- 41 and, if the ~~[[County]]~~ Executive finds it advisable, for a limited
- 42 period after completing construction; interest and reserves for
- 43 principal and interest, including costs of municipal bond
- 44 insurance and any other financial guaranty, ~~[and]~~ costs of
- 45 issuance, and administrative expenses;

- 46 \* \* \*
- 47 (7) ~~[[administrative]]~~ expenses necessary or incident to deciding
- 48 whether to proceed with a district or any infrastructure
- 49 improvement; and

50 ~~[(e)]~~ \* \* \*

51 ~~[(f)]~~ *Development District* means a special taxing district created for the  
 52 purposes listed in Section 14-2 and, if a resolution adopted under  
 53 Section 14-9 creates one or more subdistricts in a development district,  
 54 each subdistrict.



81 In addition to any power granted under any other law, the County may, subject  
 82 to applicable state law and this Chapter:

83 \* \* \*

- 84 (c) issue bonds and other obligations payable from[[:
- 85 (1)] special assessments, special taxes, fees, or charges, levied in any
- 86 development district[[; or
- 87 (2) special funds established under the Tax Increment Financing
- 88 Act]].

89 **14-6. First Council Resolution.**

90 (a) If a petition to create a development district signed by at least 80 percent  
 91 of the owners of real property and the owners of at least 80 percent in  
 92 value of the real property, as shown by the [[latest]] most recent  
 93 assessment [[rolls]] records available from the State Department of  
 94 Assessments and Taxation or any successor agency on the date the  
 95 petition is filed, located in a proposed development district, is filed with  
 96 the [[County]] Council, the Council must hold a public hearing after at  
 97 least 15 days notice in two newspapers of general circulation in the  
 98 County. The petition must specify the boundaries of the proposed  
 99 district and list the maximum number of housing units and the  
 100 maximum nonresidential space that the signing property owners intend  
 101 to build in the district.

102 (b) Alternatively, the [[County]] Council, on request of the [[County]]  
 103 Executive or on its own motion, may hold a public hearing after giving  
 104 notice as required in subsection (a). The notice must:

105 \* \* \*

106 (c) After holding a hearing under subsection (a), the Council, by resolution  
 107 approved by the Executive, may declare its intent to [[establish]] create

108 a development district consisting of a specified geographic area. In the  
 109 resolution the Council must explain why intensive development of and  
 110 public investment in that area during the term of the district will benefit  
 111 the public interest.

112 \* \* \*

113 (f) The adoption of a resolution under this Section does not:

- 114 (1) obligate the Council to create a development district; ~~[[or]]~~
- 115 (2) confer any contract, property, or other right on any person; or
- 116 (3) limit a district to the area described in the resolution.

117 (g) After the Council has adopted a resolution under Section 14-6, the  
 118 Executive may require any applicant for provisional adequate public  
 119 facilities approval under Section 14-7 to pay one or more filing fees or  
 120 provide other financial assurances, in amounts and installments set by  
 121 Executive regulation, to cover all costs of:

- 122 (1) Executive review of the proposed district;
- 123 (2) preparation of the fiscal report required under Section 14-8; and
- 124 (3) preparation of any bond issue or other financing after the district  
 125 is created.

126 **14-7. Planning Board review; compliance with adequate public facilities**  
 127 **and Annual Growth Policy requirements.**

128 \* \* \*

129 (b) Within ~~[[a reasonable time]]~~ 180 days after receiving an application  
 130 under subsection (a) and all information needed to review that  
 131 application, the Board must jointly review for compliance with Section  
 132 50-35(k) and the Growth Policy all developments located in the  
 133 proposed district as if they were one development. The Board may  
 134 extend the deadline in this subsection for another 90 days, by notifying

135 each applicant and the Executive and Council, if delays beyond the  
 136 Board's control require more time to conduct the required review. The  
 137 Council at any time may waive any applicable deadline under this  
 138 Section if the public interest so requires. In ~~[[that]]~~ its review, the  
 139 Board must apply all otherwise applicable standards and procedures.  
 140 The Board may conditionally approve an application if it finds that the  
 141 proposed district will meet all requirements under Section 50-35(k) and  
 142 any added requirements which apply to a district under the Growth  
 143 Policy. The Board may condition its approval on, among other things,  
 144 the creation and funding of the district and the building of no more than  
 145 the maximum number of housing units and the maximum nonresidential  
 146 space listed in the petition filed under Section 14-6 or any later  
 147 amendment to the petition.

148 \* \* \*

149 **14-8. Executive Fiscal Report.**

- 150 (a) After the Planning Board has acted under Section 14-7(b) and within  
 151 180 days after the Executive has received all information necessary to  
 152 review the application ~~[[but before the Council holds a public hearing~~  
 153 ~~under Section 14-9(a), unless otherwise provided in the resolution~~  
 154 ~~adopted under Section 14-6]]~~, the [County] Executive, after consulting  
 155 the Superintendent of Schools with respect to school facilities and the  
 156 Washington Suburban Sanitary Commission with respect to water and  
 157 sewer facilities, must submit a report estimating:
- 158 (1) the cost of each infrastructure improvement listed by the Planning  
 159 Board under Section 14-7(c) or recommended by the Executive  
 160 under subsection (b); and
  - 161 (2) (A) the amount of revenue needed annually to [cover the

162 district's share of] finance all infrastructure improvements  
 163 funded, fully or partly, by a district; and  
 164 (B) the [estimated tax] rate for each [form of taxation] tax,  
 165 assessment, fee, or charge available to the district that  
 166 would produce the necessary revenue.

167 The Executive should compare these estimates to those submitted by the  
 168 applicants under Section 14-7(a). The Executive may extend the 180-  
 169 day deadline in this subsection for another 90 days, by notifying the  
 170 Council, if delays beyond the Executive's control require more time to  
 171 produce the required report. The Council at any time may waive any  
 172 applicable deadline under this subsection if the public interest so  
 173 requires.

174 (b) In this report the Executive should also recommend whether to create a  
 175 district, its boundaries if one is created, whether any subdistricts should  
 176 be created in the district and, if so, their boundaries, which [[eligible]]  
 177 infrastructure improvements [[listed by the Planning Board or  
 178 otherwise]] the district should fully or partly fund, and alternative  
 179 financing or revenue-raising measures.

180 **14-9. Second Council Resolution.**

181 (a) The Council must hold a public hearing on the final resolution to create  
 182 a development district not earlier than 45 days after the Planning Board  
 183 has acted on all applications filed under Section 14-7 for that district.

184 (b) (1) The Council must give notice of the hearing by:  
 185 (A) advertisement in at least two newspapers of general  
 186 circulation in the County at least 21 days before the  
 187 hearing; and  
 188 (B) [[notifying by]] first-class mail to the record owner of each



189 property located in the proposed district at the address  
 190 shown on the [latest] most recent tax assessment [roll]  
 191 records available 30 days before the hearing from the State  
 192 Department of Assessments and Taxation or any successor  
 193 agency. The Council must retain sufficient proof that each  
 194 required notice was mailed. However, the failure of any  
 195 property owner to receive notice by mail does not  
 196 invalidate the adoption of a resolution under this Section or  
 197 any later action by the Council or Executive.

198 (2) Each notice mailed under this subsection must include:

199 (A) a copy of the proposed resolution to ~~[[establish]]~~ create a  
 200 district; and

201 (B) an estimated rate for any tax, assessment, fee, or charge  
 202 proposed to fund infrastructure improvements for the  
 203 district, or, if the estimated rate cannot reasonably be  
 204 determined, a description of how the rate will be set.

205 \* \* \*

206 (c) If the Council intends to use special obligation debt to finance the  
 207 district, and the district was initiated by the Council under subsection  
 208 14-6(b), before the Council adopts a resolution under this Section the  
 209 Council must receive a petition to create a development district signed  
 210 by at least 80 percent of the owners of real property and the owners of at  
 211 least 80 percent in value of the real property, as shown on the latest tax  
 212 assessment [[rolls]] records available from the State Department of  
 213 Assessments and Taxation or any successor agency, located in the  
 214 proposed district.

215 (d) If the district to be approved under this Section would extend beyond

216 the specified geographic area approved under Section 14-6(c), before  
 217 the Council adopts a resolution under this Section the Council must also  
 218 receive a petition to create the district signed by at least 80 percent of  
 219 the owners of the real property and the owners of at least 80 percent in  
 220 value of the real property located in the area added to the district, as  
 221 shown on the latest tax assessment records available from the State  
 222 Department of Assessments and Taxation or any successor agency.

223 ~~[[d]]~~ (e) After the public hearing, the Council by resolution approved by the  
 224 ~~[[County]]~~ Executive may create a development district. If the  
 225 Executive disapproves a resolution within 10 days after it is adopted and  
 226 the Council readopts it by a vote of six Councilmembers, or if the  
 227 Executive does not act within 10 days after the Council adopts it, the  
 228 resolution takes effect.

229 ~~[[e]]~~ (f) \* \* \*

230 ~~[[f]]~~ (g) \* \* \*

231 (h) An infrastructure improvement financed by a development district may  
 232 include any infrastructure required by the Planning Board as a condition  
 233 of project, preliminary, or site plan approval.

234 (i) A district may finance an infrastructure improvement which primarily  
 235 serves residents or occupants of only one development or subdivision  
 236 only if:

237 (1) the improvement also provides added transportation capacity,  
 238 enhanced public services, or other significant public benefits to  
 239 residents or occupants of one or more other developments or  
 240 subdivisions; or

241 (2) (A) either the Planning Board or the Executive recommends  
 242 that the district finance that improvement; and

243 (B) the Council concludes that the public interest justifies the  
 244 district financing that improvement.

245 ~~[[g)]~~ (j) The Council may amend a resolution adopted under this Section  
 246 after giving notice as required by subsection (b), including notice by  
 247 mail to each property owner in the district. [[An amended resolution  
 248 requires Executive approval or Council readoption as provided in  
 249 subsection (d).]] If the Executive disapproves an amended resolution  
 250 within 10 days after it is adopted and the Council readopts it by a vote  
 251 of 6 Councilmembers, or if the Executive does not act within 10 days  
 252 after the Council adopts it, the amended resolution takes effect.

253 (k) A resolution adopted under this Section may create one or more  
 254 subdistricts in a development district if the petition to create the  
 255 development district filed under Section 14-6 was signed by at least 80  
 256 percent of the owners of real property and the owners of at least 80  
 257 percent in value of the real property located in the proposed subdistrict.  
 258 All special taxes, assessments, fees, or charges levied on the properties  
 259 located in any subdistrict must be dedicated to a subaccount of the  
 260 special fund and used to fund the construction of specified infrastructure  
 261 improvements in or which benefit the district. If any subdistrict is  
 262 created, the resolution adopted under this Section must:

- 263 (1) specify the boundaries of each subdistrict;
- 264 (2) list the tax account number of each property in the subdistrict;
- 265 (3) list the amount of each infrastructure improvement to be financed  
 266 by special taxes, assessments, fees, or charges applicable in the  
 267 subdistrict; and
- 268 (4) create designated subaccounts in the special fund.

269 (l) The adoption of a resolution under this Section does not:

- 270           (1)   obligate the County to finance any infrastructure improvement or
- 271                   levy any tax, assessment, fee, or charge in the development
- 272                   district; or
- 273           (2)   confer any contract, property or other right on any person.

274   **14-10.       Special Taxes and Assessments.**

275                               [[\*   \*   \*]]

276           (a)   A resolution adopted under Section 14-9 must also authorize the

277                   imposition of a special assessment, special tax, fee, or charge, or any

278                   combination of them, in the development district, at a rate designed to

279                   provide adequate revenues to:

- 280           (1)   pay the principal of, interest on, and redemption premium, if any,
- 281                   on the bonds;
- 282           (2)   [[and to]] replenish [[the]] any debt service reserve fund;
- 283           (3)   pay the cost of any approved infrastructure improvement, or
- 284                   reimburse the County for the cost of any approved infrastructure
- 285                   improvement paid from other County funds;
- 286           (4)   pay directly the cost of any approved infrastructure improvement
- 287                   built or funded other than by the County; and
- 288           (5)   pay the administrative expenses of the development district [[or
- 289                   create a special fund under the Tax Increment Financing Act]].

290           The resolution may reserve the Council's authority to adjust any rate

291                   schedule.

292           (b)   The resolution must provide, except when clearly inconsistent with state

293                   law, that:

- 294           (1)   any property which is fully developed before the development
- 295                   district is created is exempt from any special assessment, special
- 296                   tax, fee, or charge imposed under this Chapter; and

297 (2) the owner of any property exempt from payment under paragraph  
 298 (1) which is later developed more intensively and benefits from  
 299 any development capacity attributable to infrastructure  
 300 improvements financed by the district must pay any tax, fee, or  
 301 charge that it would have otherwise paid under this Chapter.

302 [[In this subsection,]] Under paragraph (1), “fully developed” property  
 303 does not include any property developed after the Council adopted a  
 304 resolution under Section 14-6 by any property owner who signed a  
 305 petition under subsection 14-6(a) or that owner’s successor in interest,  
 306 and any such property is not exempt from any special assessment,  
 307 special tax, fee, or charge imposed under this Chapter.

308 [[\* \* \*]]

- 309 (c) A special assessment or special tax must:
- 310 (1) be levied and collected in the same manner, for the same period  
 311 or periods, and with the same date or dates of finality as  
 312 otherwise provided by law; and
- 313 (2) end when all bonds issued for the district have been paid in full  
 314 and the County has been fully paid for each infrastructure  
 315 improvement built or funded by the County.
- 316 (d) The special assessments, special taxes, fees, or charges[[, or tax  
 317 increments]] authorized under subsection (a) must be payable as  
 318 otherwise provided by law or (if state and County law are silent) as  
 319 provided in the resolution adopted under Section 14-9[[, but not before  
 320 any bonds are issued]]. Any special assessment, special tax, fee, or  
 321 charge must not be levied until each infrastructure improvement to be  
 322 financed or refinanced has been approved in the County capital  
 323 improvements program.

324 [(e) The total amount of any development district special tax, special  
 325 assessment, fee, or charge paid under this Chapter must be credited  
 326 against:

- 327 (1) the development impact tax and construction excise tax imposed  
 328 under Chapter 52, as applicable; and
- 329 (2) any other charge, fee or tax listed in the resolution adopted under  
 330 Section 14-9 (including any front foot benefit charge, assessment,  
 331 or tax imposed on construction) which is imposed by the County  
 332 expressly to finance the costs of infrastructure improvements  
 333 necessary to allow development.]

334 [(f)] [(e) \* \* \*]

335 (e) The resolution may establish procedures for the prepayment of any  
 336 special tax, special assessment, fee, or charge levied in the district. The  
 337 resolution also must, subject to modification by a resolution adopted  
 338 under Section 14-13:

- 339 (1) specify (to the extent not already controlled by state or County  
 340 law) the basis of and any exemptions from any special  
 341 assessment, special tax, fee, or charge;
- 342 (2) set a maximum special assessment, special tax, fee, or charge  
 343 applicable to each individual property in the district; and
- 344 (3) prohibit any increase in, or extension of the term of, the  
 345 maximum special assessment, special tax, fee, or charge  
 346 applicable to any individual property because of any delinquency  
 347 or default by any other taxpayer.

348 (f) (1) [[If a district has issued special obligation bonds under this  
 349 Chapter, a]] A taxpayer who did not sign a petition under Section  
 350 14-6(a), [[or]] and that taxpayer's successor in interest, may defer

351 any special ad valorem tax on real property imposed to support  
 352 that debt until the Planning Board approves a [[development plan  
 353 or]] plan of subdivision or resubdivision for that taxpayer's  
 354 property, or, if no subdivision plan is necessary, until the first  
 355 building permit is issued for any building on the affected  
 356 property.

357 (2) The Director of Finance and the taxpayer may agree on a  
 358 payment schedule.

359 (3) The taxpayer must pay interest on any deferred tax at the rate set  
 360 by law for unpaid real property taxes during each year that taxes  
 361 are deferred.

362 **14-11. Special Fund.**

- 363 (a) The resolution creating a special fund under Section 14-9 must:
- 364 (1) pledge to the special fund the proceeds of any special assessment,  
 365 special tax, fee, or charge levied under Section 14-10 [[or the tax  
 366 increment]]; and
- 367 (2) require that proceeds from any special tax, special assessment,  
 368 fee, or charge[[, or tax increment]] be paid into the special fund.

369 (b) When any bonds authorized by this Chapter with respect to a  
 370 development district are outstanding, the County has not been  
 371 reimbursed for the cost of any infrastructure improvement funded or  
 372 reimbursed by the County, or the cost of any infrastructure  
 373 improvement to be paid by the County directly from special  
 374 assessments or special taxes have not been paid, funds in the special  
 375 fund must be used in any fiscal year to pay the principal of, interest on,  
 376 and redemption premium, if any, on the bonds, to pay or reimburse the  
 377 County for infrastructure improvements, to pay administrative expenses,

378 and to replenish any debt service reserve fund established with respect  
379 to the bonds.

380 (c) After the bonds authorized by this Chapter with respect to a  
381 development district are fully paid, the County has been reimbursed for  
382 the cost of any infrastructure improvement funded or reimbursed by the  
383 County, and the cost of any infrastructure improvement to be paid by  
384 the County directly from special assessments or special taxes has been  
385 paid, further special assessments, special taxes, fees, or charges must  
386 not be levied and the district terminates by operation of law. If the  
387 ~~[[County]]~~ Council so determines, any balance in the special fund must  
388 be paid to the general fund of the County.

389 ~~[[d)]~~ Any required infrastructure improvement fully funded in the first 4  
390 years of the then- applicable Capital Improvements Program must not  
391 be funded with the proceeds of bonds issued under this Chapter, but  
392 must be constructed with other funds designated in the Capital  
393 Improvements Program.]]

394 **14-12. Bonds-Payment, Sinking Funds, Reserve Funds, Pledges and Other**  
395 **Financial Guaranties, Proceeds.**

396 (a) If the resolution adopted under Section 14-13 so provides, the Executive  
397 must take all necessary actions to issue bonds under this Chapter,  
398 subject to the usual and customary requirements and procedures for  
399 issuance of special district bonds.

400 \* \* \*

401 (c) If the resolution adopted under Section 14-9(c) provides for the issuance  
402 of bonds, the resolution ~~[[must establish an adequate debt service~~  
403 ~~reserve fund and]]~~ may ~~[[also]]~~ authorize the Executive to:

404 (1) establish sinking funds and debt service reserve funds;



405 (2) pledge other assets in and revenues from the district towards the  
406 payment of the principal and interest; or

407 (3) arrange for insurance or any other financial guaranty of the  
408 bonds.

409 (d) All proceeds received from any bonds issued must be applied solely  
410 towards:

411 (1) costs of the infrastructure improvements listed in the resolution  
412 adopted under Section ~~[[14-9(d)(2)]] 14-9(f)(2);~~

413 \* \* \*

414 **14-13. Resolution; Investment of Special Fund or Sinking Fund; Tax**  
415 **Exemption.**

416 (a) In order to issue bonds, the ~~[[County]]~~ Council must adopt a resolution  
417 that:

418 (1) describes the ~~[[proposed]]~~ infrastructure improvements to be  
419 financed and states that the County has complied with the  
420 procedures in this Chapter;

421 \* \* \*

422 (4) specifies (to the extent not already controlled by state or County  
423 law) the basis of any special assessment, special tax, fee, or  
424 charge~~[[, or tax increment]]~~ in a development district, and any  
425 exemptions from a special assessment~~[[,]]~~ or special tax~~[[, or tax~~  
426 ~~increment,]]~~ subject to any change in law that does not materially  
427 impair the district's ability to pay principal and interest and  
428 maintain adequate debt service reserves;

429 (5) declares that:

430 \* \* \*

431 (B) the projected special assessment, special tax, fee, or

432 charge[[, or tax increment]] revenue will be sufficient to  
 433 retire the bonds, taking into account the value of land in  
 434 the district; and

435 (6) \* \* \*

436 (B) ~~[[limits the]]~~ sets a maximum special assessment, special  
 437 tax, fee, or charge applicable to ~~[[any]]~~ each individual  
 438 property in a development district; and

439 \* \* \*

440 (b) To the extent not otherwise required by state law, the resolution may  
 441 specify, or may authorize the ~~[[County]]~~ Executive by executive order  
 442 to specify as needed:

443 \* \* \*

444 (c) The special fund and any sinking fund or reserve fund established by the  
 445 County to provide for the payment of the principal of or interest on any  
 446 bonds issued by the County under this Chapter ~~[[must]]~~ may be invested  
 447 by the County fiscal officer having custody of the fund in the manner  
 448 prescribed ~~[[by Article 31, Sections 6 and 7]]~~ under Article 95, Section  
 449 22 of the Maryland Code. Any fiscal officer having custody of the  
 450 proceeds of the sale of any such bonds may invest the proceeds, pending  
 451 their expenditure, as prescribed under Article 95, Section 22 ~~[[of the~~  
 452 ~~Maryland Code]]~~.

453 \* \* \*

454 (e) The adoption of a resolution under this Section does not:

455 (1) obligate the County to issue bonds; or

456 (2) confer any contract, property, or other right on any person.

457 **14-16. Administration of district; Termination.**

458 (a) The Executive must administer each district, prepare bond issues,

- 459 collect taxes and revenues, and oversee construction of infrastructure  
460 improvements. Chapter 11B does not apply to:
- 461 (1) financing, acquiring, or building any infrastructure improvement  
462 under this Chapter; or
- 463 (2) retaining consultants or other professional services in connection  
464 with financing any infrastructure improvement or administering  
465 any development district.
- 466 (b) Construction of each infrastructure improvement listed in the resolution  
467 creating a district must begin promptly when bond proceeds or other  
468 funds are available unless:
- 469 (1) the approved Capital Improvements Program provides otherwise;  
470 or
- 471 (2) the improvement is being or has already been built. [[Unless  
472 otherwise authorized by law, bidding and construction of  
473 infrastructure improvements must follow the County's usual  
474 process for constructing capital improvements.]]
- 475 (c) (1) The County may contract with the Revenue Authority or another  
476 public agency or [[(subject to competitive procurement laws)]] a  
477 private party, including [[the Revenue Authority or owners]] any  
478 owner of property in a development district, to construct or  
479 reimburse the cost of any infrastructure improvement when  
480 significant cost or time savings have resulted or are likely to  
481 result. In a contract under this subsection, the County may  
482 reimburse the cost of an infrastructure improvement as it is being  
483 built or after construction is complete.
- 484 (2) However, any reimbursement of construction costs under this  
485 subsection must not exceed the lowest of:

- 486 (A) the unencumbered appropriation available for that item;
- 487 (B) the actual construction cost of the item; or
- 488 (C) a fair and reasonable price developed under a cost/price
- 489 analysis method used by the Office of Procurement.

490 (d) If the County has not issued any bonds for a district created under this  
 491 Chapter, or if all bonds issued to finance a district have been repaid, the  
 492 County has been reimbursed for the cost of any infrastructure  
 493 improvement funded or reimbursed by the County, and the cost of any  
 494 infrastructure improvement to be paid by the County directly from  
 495 special assessments or special taxes has been paid, the Council may  
 496 terminate the district by resolution approved by the Executive. If the  
 497 Executive disapproves a resolution within 10 days after it is adopted and  
 498 the Council readopts it by a vote of ~~[[six]]~~ 6 Councilmembers, or if the  
 499 Executive does not act within 10 days after the Council adopts it, the  
 500 resolution takes effect.

501 **14-17. Disclosure; notices [to Buyers].**

502 (a) A [contract to sell] seller of real property located in a development  
 503 district or proposed development district (as defined in subsection (f))  
 504 must disclose to [the initial buyer, and] any [later] buyer during the life  
 505 of any [special assessment, special tax, fee, or charge authorized]  
 506 development district created under this Chapter[,];

- 507 (1) the amount of any special assessment, special tax, fee, or charge
- 508 which the buyer must pay; or
- 509 (2) if that amount cannot readily be determined, a method of
- 510 calculating the amount in sufficient detail to [[allow]] enable the
- 511 buyer to estimate the maximum amount the buyer will pay
- 512 currently and during the life of the district.

513 This disclosure must be made in any sale or lot reservation contract.

514 (b) The seller of any property located in a development district or proposed  
 515 development district (as defined in subsection (f)) must specify in any  
 516 advertisement, sales brochure, sign, or other sales material that the seller  
 517 creates or authorizes, that:

- 518 (1) the property is or would be located in a development district; and  
 519 (2) any potential buyer should ask the seller about the additional  
 520 taxes and other charges [[that]] for which a property owner in the  
 521 district may be liable [[for]].

522 Each sales office and model home in a new housing development  
 523 located in a development district or proposed development district (as  
 524 defined in subsection (f)) must prominently display at least one sign that  
 525 contains the information required under this subsection. [Any contract  
 526 which does not disclose all items required by this Section is voidable at  
 527 the option of the buyer before the date of settlement.] The information  
 528 required under this subsection need not be included in a printed  
 529 advertisement that is smaller than 16 square inches, or on the initial  
 530 screen of an internet listing as long as the information appears elsewhere  
 531 on that listing.

532 [(b)] (c) A notice in a contract of sale or similar document which prominently  
 533 contains the heading “Notice of Special Tax or Assessment” [[in at least  
 534 14-point type]] and substantially conforms to the following text  
 535 complies with [this Section] subsection (a):

536 Each year the buyer of this property must pay a special  
 537 assessment or special tax imposed under Chapter 14 of the  
 538 Montgomery County Code, in addition to all other taxes and  
 539 assessments that are due. As of (date of this contract [of sale]),

540 the special assessment or special tax on this property amounts to  
 541 or will not exceed (dollar amount in arabic numbers) each year.  
 542 As of (date of each scheduled or expected increase), the  
 543 assessment or tax is scheduled to increase to (amount of each  
 544 scheduled or expected increase). For further information on this  
 545 assessment or tax, the buyer can contact the County Department  
 546 of Finance at (current telephone number).

547 If an increase in any special assessment, special tax, fee, or charge is  
 548 likely to occur in the foreseeable future but the timing or amount of the  
 549 increase is not certain when the contract is signed, the notice must also  
 550 expressly disclose that fact.

551 ~~[(c)]~~ (d) [Before any bonds are issued under this Chapter] Promptly after the  
 552 Council adopts a resolution under Section 14-9, the Director of Finance  
 553 must record among the land records of the County at the cost of the  
 554 development district a declaration encumbering all real property located  
 555 in the district and designating that property as subject to a development  
 556 district. The declaration must terminate when the Director records a  
 557 release stating that all bonds are fully repaid, the County has been  
 558 reimbursed for the cost of any infrastructure improvement funded or  
 559 reimbursed by the County, the cost of any infrastructure improvement to  
 560 be paid by the County directly from special assessments or special taxes  
 561 has been paid, and all other obligations of the County relating to the  
 562 district have been satisfied. While the declaration is in effect, each deed  
 563 to any real property located in the district must contain a notice that:  
 564 (1) the property is located in a development district; and  
 565 (2) a declaration filed in the County land records encumbers the  
 566 property.

567 [(d)] (e) The Director of Finance must indicate on the real estate tax bill for  
 568 each property in a development district the amount of any special  
 569 assessment or special tax imposed on the property.

570 (f) Any notice or other information that this Section requires a seller to  
 571 provide for a property located in a development district must also be  
 572 provided if a development district has not been created but the property  
 573 is located in an area proposed to be included in a development district  
 574 by a petition filed under Section 14-6.

575 (g) Any contract which does not disclose all information required by this  
 576 Section is voidable at the option of the buyer before the date of  
 577 settlement.

578 (h) In addition to any other applicable remedy or penalty, any person who  
 579 does not comply with this Section is liable for any damages sustained by  
 580 a buyer or potential buyer because of that person's failure to provide  
 581 any required notice or information. However, a seller or the seller's  
 582 agent is not liable for an incorrect estimate of the amount of any tax,  
 583 assessment, fee, or charge disclosed under this Section if the seller  
 584 relied in good faith on a method approved or recommended by the  
 585 County to estimate that amount.

586 (i) The Office of Consumer Protection must enforce this Section as if it  
 587 were part of Chapter 11.

588 **Sec. 2. Sections 52-54 and 52-55 are amended as follows:**

589 **52-54. Refunds.**

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

592 (1) ~~[[The]]~~ the County has not appropriated the funds for impact  
 593 transportation improvements of the types listed in Section 52-58,

594 or otherwise formally designated a specific improvement of a  
595 type listed in Section 52-58 to receive funds, by the end of the  
596 sixth fiscal year after the tax is collected;

597 (2) ~~[[The]]~~ the building permit has been revoked or has lapsed  
598 because ~~[[of noncommencement of]]~~ construction did not start; ~~or~~

599 (3) ~~[[The]]~~ the project has been physically altered, resulting in a  
600 decrease in the amount of ~~[[the development]]~~ impact tax due~~[[;~~  
601 ~~or]]~~.

602 ~~[[~~(4) A declaration encumbering the property for which the  
603 development impact tax has been paid has been recorded in the  
604 County land records as required under Section 14-17(c) and the  
605 applicant is entitled to a credit under Section 52-55(d).~~]]~~

606 \* \* \*

607 **52-55. Credits.**

608 \* \* \*

609 ~~[[~~(d) To the extent provided in Section 14-10(e), an applicant is entitled to a  
610 credit against the impact tax imposed by this Article for any  
611 development district special tax, special assessment, fee, or charge paid  
612 under Chapter 14 for property located in the development district for  
613 which a building permit is sought. In calculating the amount of the  
614 credit, a special tax, special assessment, fee, or charge imposed under  
615 Chapter 14 must be considered paid for a property when a declaration  
616 encumbering the property required under Section 14-17(c) has been  
617 recorded in the County land records.~~]]~~ Reserved.

618 \* \* \*

619 **Sec. 3. Applicability; interpretation.**

620 (a) Any amendment to County Code Chapter 14 made in Section 1 of this



- 621                   Act applies to any action taken after this Act takes effect with respect to  
622                   any development district created before or after this Act takes effect.
- 623           (b)   Any amendment to County Code Chapter 14 made in Section 1 of this  
624                   Act does not alter or affect any Council resolution adopted, or other  
625                   action taken with respect to a development district, before this Act takes  
626                   effect.
- 627           (c)   Any amendment to County Code Chapter 14 made in Section 1 of this  
628                   Act does not indicate that the previous version of a provision amended  
629                   by Section 1 of this Act should be interpreted differently from the same  
630                   provision as amended by Section 1 of this Act.
- 631           (d)   Any notice or disclosure requirement in Section 14-17, as amended by  
632                   Section 1 of this Act, applies to any sale contract signed, and any sales  
633                   material or advertisement for sale disseminated, after this Act takes  
634                   effect in any development district created, and in any proposed  
635                   development district for which the Council adopted a resolution under  
636                   Section 14-6, after January 1, 2001.

637 *Approved:*

638

639  16 OCT 08  
Michael J. Knapp, President, County Council Date

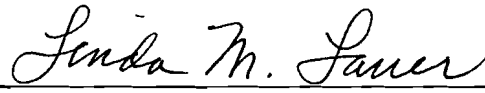
640 *Approved:*

641

642  Oct 27, 2008  
Isiah Leggett, County Executive Date

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

644

645  Oct 28, 2008  
Linda M. Lauer, Clerk of the Council Date