

Bill No. 31-03
Concerning: Transportation Impact Tax -
Amendments
Revised: 10-27-03 Draft No. 4
Introduced: September 9, 2003
Enacted: October 28, 2003
Executive: _____
Effective: March 1, 2004
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Planning Board

AN ACT to:

- (1) revise the transportation impact tax districts and rates;
- (2) revise certain exemptions from the tax and restrictions on the use of impact tax revenue; and
- (3) generally amend the law governing the transportation impact tax.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-47, 52-49, 52-53, 52-55, 52-57, and 52-58

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. Sections 52-47, 52-49, 52-53, 52-55, 52-57, and 52-58, and the**
2 **heading for Chapter 52, Article VII, are amended as follows:**

3 **Article VII. Development Impact Tax for Transportation Improvements**

4 **52-47. Definitions.**

5 * * *

6 *Planning policy area* means any [of the] geographic [areas described]
7 area designated as a transportation policy area in the annual growth
8 policy.

9 * * *

10 *Residential* means the use of a building as a dwelling unit.

11 * * *

12 (5) High-rise residential includes any dwelling unit located in a
13 multifamily residential or mixed-use building that is taller than 4
14 stories, and any 1-bedroom garden apartment.

15 * * *

16 **52-49. Imposition and applicability of development impact taxes.**

17 * * *

18 (b) An applicant for a building permit [for development in an impact tax
19 district] must pay a development impact tax in the amount and manner
20 provided in this Article, unless a credit in the full amount of the
21 applicable tax applies under Section 52-55 or an appeal bond is posted
22 under Section 52-56.

23 (c) The following impact tax districts are established, consisting of the
24 [following] listed Planning Policy Areas as [described] defined in the
25 Annual Growth Policy:

26 [(1) Germantown: Germantown East, Germantown Town Center, and
27 Germantown West;

- 28 (2) Eastern Montgomery County: Fairland/White Oak and Cloverly;
- 29 (3) Clarksburg: Clarksburg;
- 30 (4) The County District: all planning policy areas and municipalities
- 31 not located in the Germantown, Eastern Montgomery County, or
- 32 Clarksburg impact tax districts.]

33 (1) Metro Station: Friendship Heights, Bethesda CBD, Grosvenor,
 34 White Flint, Twinbrook, Rockville Town Center, Shady Grove
 35 Metro, Silver Spring CBD, Wheaton CBD, and Glenmont Metro
 36 station policy areas;

37 ~~[(2) Red Line: Bethesda-Chevy Chase, North Bethesda, Derwood,~~
 38 ~~Rockville, Silver Spring/Takoma Park, and Kensington/Wheaton~~
 39 ~~policy areas;]]~~

40 ~~[(3) Suburban: Gaithersburg, R&D Village, Germantown East,~~
 41 ~~Germantown Town Center, Germantown West, Clarksburg,~~
 42 ~~[[Damascus,]] Potomac, North Potomac, Montgomery Village,~~
 43 ~~Aspen Hill, Olney, Fairland/White Oak, and Cloverly policy~~
 44 ~~areas;]]~~

45 (2) Clarksburg: Clarksburg policy area;

46 ~~[(4) Rural]] (3) General: Any part of the County, including any~~
 47 ~~municipality, not located in a listed planning policy area.~~

48 [(d) Development impact taxes must be accounted for and segregated by the
 49 impact tax district from which the taxes are received. The taxes must be
 50 restricted in their use to funding improvements listed in Section 52-58.]

51 Reserved.

52 * * *

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

54 * * *

55 [[2)] any Productivity Housing unit, as defined in Section 25B-17(j),
56 which meets the price or rent eligibility standards for a
57 moderately priced dwelling unit under Chapter 25A;]]

58 [[3)]] (2) any other [development in which at least 20% of the dwelling
59 units are] dwelling unit built under a government regulation or
60 binding agreement that limits for at least 15 years the price or rent
61 charged for the unit in order to make the unit affordable to
62 households earning less than [50% of the area median income, or
63 40% of the units are built under a similar regulation or agreement
64 that makes them affordable to households earning less than] 60%
65 of the area median income, adjusted for family size;

66 [[4)]] (3) * * *

67 [[5)]] (4) * * *

68 [[6)]] (5) * * *

69 (h) The development impact tax does not apply to:

70 (1) any reconstruction or alteration of an existing building or part of
71 a building that does not increase the gross floor area of the
72 building; and

73 (2) any building that replaces an existing building on the same site or
74 in the same project (as approved by the Planning Board or the
75 equivalent body in Rockville or Gaithersburg) to the extent of the
76 gross floor area of the previous building, if:

77 (A) construction begins within one year after demolition or
78 destruction of the previous building was substantially
79 completed; or

80 (B) the previous building is demolished or destroyed, after the
81 replacement building is built, by a date specified in a

82 phasing plan approved by the Planning Board or
83 equivalent body.

84 However, if in either case the development impact tax that would be due
85 on the new, reconstructed, or altered building is greater than the tax that
86 would have been due on the previous building if it were taxed at the
87 same time, the applicant must pay the difference between those
88 amounts.

89 **52-53. Restrictions on use and accounting of development impact tax**
90 **funds.**

91 (a) The funds collected by the development impact tax must be used solely
92 [for the purpose of funding the impact tax district transportation
93 program in the impact tax district from which the development impact
94 tax was collected and, in the County district,] to fund County or
95 municipal transportation improvements of the types listed in Section 52-
96 58 located anywhere in the County, except as provided in subsections
97 (c), (h) and (i). In appropriating funds collected by the development
98 impact tax, the Council should, to the extent feasible, designate funds to
99 be used for transportation improvements in the policy area from which
100 the funds were collected or an adjacent policy area. In any fiscal year,
101 development impact tax funds may be spent only to the extent that the
102 annual average amount of funds from other County or city sources spent
103 for transportation improvements listed in Section 52-58 during the 3
104 previous fiscal years exceeds \$12 million.

105 * * *

106 (c) The Department of Finance must establish separate accounts for [each
107 impact tax district,] the City of Gaithersburg[,] and the City of
108 Rockville, and must maintain records for each account so that

109 development impact tax funds collected can be segregated by each [of
110 these areas] city.

111 * * *

112 (h) Development impact tax funds collected from a project in a Metro
113 Station Policy Area[[, as defined by the Annual Growth Policy,]] [
114 under the Alternative Review Procedure for Metro Station Policy
115 Areas,] must be used for impact transportation improvements located in
116 the same Metro Station Policy Area, or in an adjacent Planning Policy
117 Area.

118 (i) Development impact tax funds collected from a project in the
119 Clarksburg impact tax district must be used for impact transportation
120 improvements located in or that directly benefit the Clarksburg policy
121 area.

122 **52-55. Credits.**

123 * * *

124 (b) A property owner must receive a credit for constructing or contributing
125 to an improvement of the type listed in Section 52-58 if the
126 improvement reduces traffic demand or provides additional
127 transportation capacity. However, the Department must not certify a
128 credit for any improvement to or other action limited to a State road,
129 except a transit or trip reduction program that operates on or relieves
130 traffic on a State road or an improvement to a State road that is included
131 in a memorandum of understanding between the County and either
132 Rockville or Gaithersburg.

133 * * *

134 (4) The County must not provide a refund for a credit which is
135 greater than the applicable tax. [[If, however, the amount of the

136 credit exceeds the amount of the tax due, the property owner may
 137 apply the excess credit toward the development impact taxes
 138 imposed on other building permits for development with the
 139 same ownership. In this Section, a property has the same
 140 ownership as another property if the same legal entity owns at
 141 least 30% of the equity in both properties.]]

142 (5) Any credit issued under this subsection on or after March 1,
 143 2004, expires 6 years after the Department certifies the credit.

144 (c) A property owner may apply to the Director of Permitting Services for a
 145 credit for the amount of the development impact tax previously paid if:

- 146 (1) The project has been altered, resulting in a decrease in the
 147 amount of the [development impact] tax due; or
- 148 (2) The building permit lapses because of noncommencement of
 149 construction.

150 [A credit granted under this subsection may only be applied to a
 151 building permit application submitted by the current property owner for
 152 development in the same impact tax district.]

153 * * *

154 **52-57. [Development impact taxes] Tax rates.**

155 (a) The [development impact] tax rates for each impact tax district are:

156

156

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)

[[Land Use]] <u>Building Type</u>	[Germantown] <u>Metro Station</u>	[Eastern Montgomery County] <u>[[Red Line]]</u>	[Clarksburg] <u>[[Suburban]] Clarksburg</u>	[County District] <u>[[Rural]] General</u>
Single-family [detached] <u>detached</u> residential (per dwelling unit)	\$[2,492] <u>[[1500]] 2750</u>	[[1,727]] <u>[[3000]]</u>	\$[2,753] <u>[[4500]] 8250</u>	\$[2,100] <u>[[6000]] 5500</u>
Single-family attached residential (per dwelling unit)	\$[[2,492]] <u>2250</u>	[[1,727]]	\$[[2,753]] <u>6750</u>	\$[[2,100]] <u>4500</u>
Multifamily residential (<u>except high- rise</u>) (per dwelling unit)	\$[1,794] <u>[[1000]] 1750</u>	[[1,243]] <u>[[2000]]</u>	\$[1,981] <u>[[3000]] 5250</u>	\$[1,100] <u>[[4000]] 3500</u>
<u>High-rise residential (per dwelling unit)</u>	<u>1250</u>		<u>3750</u>	<u>2500</u>
Multifamily- senior residential (per dwelling unit)	\$[531] <u>[[500]] 500</u>	[[368]] <u>[[1000]]</u>	\$[573] <u>[[1500]] 1500</u>	\$[325] <u>[[2000]] 1000</u>
Office (per sq. ft. GFA)	\$[[2]] <u>2.50</u>	[[2]] <u>[[4]]</u>	\$[2] <u>[[6]] 6</u>	\$[1.50] <u>[[8]] 5</u>
Industrial (per sq. ft. GFA)	\$[1] <u>[[2]] 1.25</u>	[[1]] <u>[[4]]</u>	\$[1] <u>[[6]] 3</u>	\$[1] <u>[[8]] 2.50</u>
Bioscience <u>[[facilities]] facility</u> (per sq. ft. GFA)	\$0	[[0]]	\$0	\$0
Retail (per sq. ft. GFA)	\$[5.08] <u>[[3]] 2.25</u>	[[3.52]] <u>[[6]]</u>	\$[5.61] <u>[[9]] 5.40</u>	\$[1.50] <u>[[12]] 4.50</u>

[[Places]] <u>Place of worship</u> (per sq. ft. GFA)	\$0.[29] <u>15</u> [[20]]	[[\\$0.]] [20] [[25]]	\$0.[32] <u>35</u> [[30]]	\$0.[20] [[35]] <u>30</u>
Private elementary and secondary [[schools]] <u>school</u> (per sq. ft. GFA)	\$0.[48] <u>20</u> [[30]]	[[\\$0.]] [33] [[35]]	\$0.[53] <u>50</u> [[40]]	\$0.[30] [[45]] <u>40</u>
[[Hospitals]] <u>Hospital</u> (per sq. ft. GFA)	\$0	[[\\$0]]	\$0	\$0
Other nonresidential (per sq. ft. GFA)	\$[5.62] <u>1.25</u> [[2]]	[[\\$]] [3.89] [[4]]	\$[[6]] [.20] <u>3</u>	\$[1] [[8]] <u>2.50</u>

157 [(b) Except as provided in subsection (c), any development located in a
 158 Metro Station Policy Area, as defined in the Annual Growth Policy,
 159 must pay the tax at 50% of the tax calculated in subsection (a).]

160 [(c) (b) Any development [located in a Metro Station Policy Area] that
 161 receives approval of a preliminary plan of subdivision under [the] any
 162 Alternative Review Procedure [for Metro Station Policy Areas] must
 163 pay the tax at double the rate listed in subsection (a).

164 (c) Any Productivity Housing unit, as defined in Section 25B-17(j), must
 165 pay the tax at 50% of the applicable rate calculated in subsection (a).

166 * * *

167 **52-58. [Impact tax district transportation program] Use of impact tax**
 168 **funds.**

169 [The impact tax district transportation program is as follows:]

170 *Delete heading and subsections (a)-(c)*

171 [(d) [In the County district, projects that may be funded with impact taxes
 172 are] Impact tax funds may be used for any:

- 173 (1) new road or widening of an existing road that adds highway or
- 174 intersection capacity or improves transit service or bicycle
- 175 commuting, such as bus lanes or bike lanes;
- 176 (2) new or expanded transit center or park-and-ride lot,
- 177 (3) bus added to the Ride-On bus fleet, but not a replacement bus;
- 178 (4) new bus shelter, but not a replacement bus shelter;
- 179 (5) hiker-biker trail used primarily for transportation;
- 180 (6) bicycle locker that holds at least 8 bicycles;
- 181 (7) sidewalk connector to a major activity center or along an arterial
- 182 or major highway; or
- 183 (8) in a Metro Station Policy Area or an adjacent policy area, the
- 184 operating expenses of any transit or trip reduction program.

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

188 **Sec. 2. Effective Date.**

189 (a) This Act takes effect on March 1, 2004. The development impact tax
 190 imposed under Article VII of Chapter 52, as amended by Section 1 of
 191 this Act, applies to any building for which an application for a building
 192 permit is filed on or after that date.

193 (b) The development impact tax rates imposed under Section 52-57, as
 194 amended by Section 1 of this Act, do not apply to any building located
 195 in a Metro Station Policy Area or Town Center Policy Area if:

196 (1) a site plan which includes that building was approved by vote of
 197 the County Planning Board, or the equivalent body in any
 198 municipality, before May 1, 2003; and

199 (2) (A) a building permit is issued for that building before

200 September 1, 2006; or
201 (B) if the building is part of a mixed use project, a building
202 permit is issued for any building or structure in that project
203 before March 1, 2005.

204 Any building to which this subsection applies is liable for the tax at the
205 rates in effect on February 29, 2004.

206 *Approved:*

207

Michael L. Subin, President, County Council Date

208 *Approved:*

209

Douglas M. Duncan, County Executive Date

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

211

Mary A. Edgar, CMC, Clerk of the Council Date