Attachment 2

Expedited Bill No. 16-24
Concerning: Development Impact Tax -
Amendments
Revised: <u>11/12/2024</u> Draft No. <u>4</u>
Introduced: September 10, 2024
Expires: December 7, 2026
Enacted: November 12, 2024
Executive:
Effective:
Sunset Date: None
Ch, Laws of Mont. Co

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Planning Board

AN **EXPEDITED** ACT to:

- (1) update transportation impact tax districts;
- (2) modify the applicability of development impact tax exemptions for certain uses and in certain locations; and
- (3) generally amend the law governing transportation and school development impact taxes.

By amending

Montgomery County Code Chapter 52, Taxation Sections 52-39, 52-41, <u>52-43</u>, 52-47, 52-49, 52-52, 52-54, 52-55, and 52-59

Boldface	Heading or defined term.
<u>Underlining</u>	Added to existing law by original bill.
[Single boldface brackets]	Deleted from existing law by original bill.
<u>Double underlining</u>	Added by amendment.
[[Double boldface brackets]]	Deleted from existing law or the bill by amendment.
[[Double boldface brackets]] * * *	Deleted from existing law or the bill by amendment. Existing law unaffected by bill.

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

1	Sec. 1. Sections 52-39, 52-41, <u>52-43, 52-47, 52-49, 52-52, 52-54, 52-55, and</u>			
2	52-59 are amended as follows:			
3	52-39. Definitions.			
4	In this Article the following terms have the following meanings:			
5	* * *			
6	Demolish means to tear down or destroy an entire building or structure, or 67 percent			
7	or more of first-story exterior walls of a one-family or two-family dwelling unit.			
8	Demolish includes the conversion of an exterior wall into an interior wall. Basement			
9	and cellar walls are not considered exterior walls.			
10	* * *			
11	Office-to-residential conversion is when an existing office building is turned into			
12	housing through adaptive reuse, renovation, or demolition.			
13	Operating [[Expense]] expense includes reasonable costs of staffing, advertisement,			
14	marketing, building rental, furniture, supplies and materials, bus fuel, and personnel			
15	to operate a trip reduction program.			
16	[[Office-to-residential conversion is when an existing office building is turned into			
17	housing through adaptive reuse, renovation, or demolition.]]			
18	* * *			
19	Residential means the use of a building as a dwelling unit.			
20	* * *			
21	(5) High-rise residential includes any dwelling unit located in a			
22	multifamily residential or mixed_use building that is taller than 4 stories			
23	[[, and any 1-bedroom garden apartment]].			
24	Sidewalk [[Connector]] connector means a sidewalk that provides a direct link or			
25	connection to a major activity center.			

26 <u>Stacked flats are dwelling units constructed in a stack of [[two]] 2 or more dwelling</u>

- 27 <u>units</u>, where each dwelling unit is located either above or below an adjacent unit
- 28 <u>within a single building that is 4 stories or less.</u>
- Use and occupancy permit means a use and occupancy permit issued by the
 Department of Permitting Services under Chapter 8.
- *[Sidewalk Connector* means a sidewalk that provides a direct link or connection to a
 major activity center.]
- 33 * * *

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(c) The following impact tax districts are established:

52-41. Imposition and applicability of development impact taxes.

- White Flint: The part of the [White Flint] North Bethesda Metro
 Station Policy Area included in the White Flint Special Taxing
 District in Section 68C-2;
- 40 (2) *Red Policy Areas:* Bethesda CBD, Chevy Chase Lake, Forest
 41 Glen, Friendship Heights, <u>Great Seneca Life Science Center</u>,
 42 Grosvenor, Glenmont,[,] Lyttonsville, Medical Center, <u>North</u>
 43 <u>Bethesda Metro Station</u>, Purple Line East, <u>Rock Spring</u>,
 44 Rockville Town Center, Shady Grove, Silver Spring CBD,
 45 Takoma, Twinbrook, Wheaton CBD, <u>White Oak Downtown</u>, and
 46 Woodside Metro Station Policy Areas;
- 47 (3) Orange Policy Areas: Aspen Hill, Bethesda/Chevy Chase,
 48 Burtonsville Crossroads, <u>Clarksburg East</u>, Clarksburg Town
 49 Center, Derwood, <u>Fairland/Briggs Chaney</u>, Gaithersburg City,
 50 <u>Germantown East</u>, Germantown Town Center, <u>Germantown</u>
 51 <u>West</u>, <u>Great Seneca Communities</u>, Kensington/Wheaton, North
 52 Bethesda, [R&D Village,] <u>Olney Town Center</u>, Rockville City,

53			and Silver Spring/Takoma Park[, White Flint, except the portion
54			that is included in the White Flint Special Taxing District in
55			Section 68C-2, and White Oak] Policy Areas;
56		(4)	Yellow Policy Areas: [Aspen Hill,] Clarksburg West, Cloverly,
57			Damascus [Fairland/Colesville], Colesville [Germantown East,
58			Germantown West], Montgomery Village/Airpark, North
59			Potomac, Olney, and Potomac Policy Areas; and
60		(5)	Green Policy Areas: [Damascus,] Rural East[,] and Rural West
61			Policy Areas.
62			* * *
63	(g)	A de	evelopment impact tax must not be imposed on:
64			* * *
65		(6)	except for a development located in the City of Rockville, any
66			development located in a Qualified Opportunity Zone certified
67			by the United States Treasury Department[[,]] or in an area
68			previously designated as an Opportunity Zone, including a
69			development located in the following census tracts as defined by
70			their 2010 Census Boundaries: Silver Spring - 25.00, 26.01;
71			<u>Takoma Park - 17.03, 20.00, 23.01; White Oak - 15.05, 15.09,</u>
72			<u>14.21; Wheaton – 38.00; Rockville – 9.04; Gaithersburg – 7.24,</u>
73			<u>7.23, 7.13, 8.13; and Germantown – 8.30;</u>
74		(7)	a house built by high school students under a program operated
75			by the Montgomery County Board of Education; [or]
76		(8)	a farm tenant dwelling[.]:
77		<u>(9)</u>	<u>a bioscience facility;</u>
78		<u>(10)</u>	<u>a multifamily dwelling unit with 3 or more bedrooms in a</u>
79			multifamily structure; [[or]]

80		[[(11) an office-to-residential conversion when the building is
81		adaptively reused or renovated for multifamily housing.]]
82		[[(12)]](11) any single-family attached or detached dwelling units with
83		a gross floor area of 1,800 square feet or less, or a gross floor
84		area of 2,200 square feet or less including an attached garage; or
85		
86		(12) any development that is within one-half mile of a Metro station,
87		within a Parking Lot District, and that provides no onsite parking.
88		* * *
89	(h)	The development impact tax does not apply to:
90		* * *
91		(4) office-to-residential conversions when the building is adaptively
92		reused or renovated for multi-family housing; and
93		(5) the conversion of office to multi-family, single-family detached,
94		or single-family attached housing when demolition is involved.
95		* * *
96	52-43. Calo	culation of development impact tax.
97		* * *
98	<u>(f)</u>	A 1-bedroom garden apartment must be calculated using the high-rise
99		residential rate if the preliminary plan was approved before January 1,
100		<u>2025.</u>
101		* * *
102	52-47. Cre	dits
103		* * *
104	(b)	Except as provided in subsection (1), a property owner must receive a
105	~ /	credit for constructing or contributing to an improvement of the type
106		listed in Section 52-50, including the cost of an improvement in a
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107		Unified Mobility Program or the White Oak Local Area Transportation
108		Improvement Program, if the improvement reduces traffic demand or
109		provides additional transportation capacity and to the extent the cost of
110		the improvement exceeds the property owner's fee under a Unified
111		Mobility Program or the White Oak Local Area Transportation
112		Improvement Program.
113		* * *
114		(4) Any credit that was certified under this subsection on or after
115		March 1, 2004, and before December 31, 2015, expires 6 years
116		after the Department certifies the credit. Any credit that was
117		certified under this subsection on or after January 1, 2016,
118		expires 12 years after the Department certifies the credit, except
119		that any credit certified between January 1, 2016, and January 1,
120		2022, in the amount of at least \$3 million expires 16 years after
121		the Department certifies the credit.
122		* * *
123	(1)	The Department must not certify a credit for[:]
124		[(1)] the cost of a project in a Unified Mobility Program or the White
125		Oak Local Area Transportation Improvement Program or the
126		White Oak Local Area Transportation Improvement Program up
127		to the property owner's fee under a Unified Mobility Program or
128		the White Oak Local Area Transportation Improvement
129		Program.[; or]
130		[(2) any improvement in the right-of-way of a State road, except:]
131		[(A) a transit program that operates on or relieves traffic on a
132		State road or an improvement to a State road that is

133		included in a memorandum of understanding between the
134		County and either Rockville or Gaithersburg; or]
135		[(B) the cost of an improvement in a Unified Mobility Program
136		or the White Oak Local Area Transportation Improvement
137		Program to the extent it exceeds the property owner's fee
138		under a Unified Mobility Program or the White Oak Local
139		Area Transportation Improvement Program.]
140		* * *
141	52-49. Tax	rates.
142		* * *
143	(h)	Except for a development located in the City of Rockville, any
144		development located in a Desired Growth and Investment Area, as
145		defined in the 2020-2024 Growth and Infrastructure Policy
146		(Subdivision Staging Policy), that has an accepted preliminary plan
147		application, or equivalent plan acceptance in the City of Gaithersburg,
148		before January 1, 2025, must pay the tax at:
149		(1) 60[%] <u>percent</u> of the otherwise applicable rate if located in an
150		Orange Policy Area; or
151		(2) 68[%] <u>percent</u> of the otherwise applicable rate if located in a
152		Yellow Policy Area.
153	[[<u>(i)</u>	Any single-family [[detached residential or detached single-family]]
154		attached or detached dwelling [[units]] unit with a gross floor area of
155		1,800 square feet or less must pay the tax at 50 percent of the otherwise
156		applicable rate.]]
157	[[<u>(j)</u>	Office-to-residential conversions when demolition is involved in the
158		conversion of office to multifamily or single-family attached housing
159		must pay the tax at 50 percent of the otherwise applicable rate.]]

161* * *162 52-52. Definitions. 163In this Article all terms defined in Section 52-39 have the same meanings, and the164following terms have the following meanings:165* * * *166 <i>High-rise unit</i> means any dwelling unit located in a multifamily residential or167mixed-use building that is taller than 4 stories. [, and any 1-bedroom garden168apartment.]169 <i>Low-rise unit</i> means any dwelling unit located in a multifamily residential or170mixed-use building that is 4 stories or less.171* * *172 52-54. Imposition and applicability of tax. 173* * * *174(d) The tax under this Article must not be imposed on:175* * * *176(6)except for a development located in the City of Rockville, any177development located in a Qualified Opportunity Zone certified178by the United States Treasury Department[[,]] or in an area179previously designated as an Opportunity Zone, including a180development located in the following census tracts as defined by181their 2010 Census Boundaries: Silver Spring - 25.00, 26.01;182Takoma Park - 17.03, 20.00, 23.01; White Oak - 15.05, 15.09,18314.21; Wheaton - 38.00; Rockville - 9.04; Gaithersburg - 7.24,1847.23, 7.13, 8.13; and Germantown - 8.30; [or] or185(7)a house buil by high school students under a program operated186by the Montgomery County Board of Education_[, [, []] [_or]] <th>160</th> <th>[[<u>(k)]](</u>[</th> <th><u>i)</u></th> <th>Stacked flats must pay the multifamily low-rise applicable rate.</th>	160	[[<u>(k)]](</u> [<u>i)</u>	Stacked flats must pay the multifamily low-rise applicable rate.
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182 Takoma Park – 17.03, 20.00, 23.01; White Oak – 15.05, 15.09, 183 14.21; Wheaton – 38.00; Rockville – 9.04; Gaithersburg – 7.24, 184 7.23, 7.13, 8.13; and Germantown – 8.30; [or] or 185 (7) a house built by high school students under a program operated	180			development located in the following census tracts as defined by
183 14.21 ; Wheaton – 38.00 ; Rockville – 9.04 ; Gaithersburg – 7.24 ,184 $7.23, 7.13, 8.13$; and Germantown – 8.30 ; [or] or185(7)a house built by high school students under a program operated	181			their 2010 Census Boundaries: Silver Spring - 25.00, 26.01;
184 $7.23, 7.13, 8.13;$ and Germantown – $8.30;$ [or] or185(7)a house built by high school students under a program operated	182			<u>Takoma Park - 17.03, 20.00, 23.01; White Oak - 15.05, 15.09,</u>
185 (7) a house built by high school students under a program operated	183			<u>14.21; Wheaton – 38.00; Rockville – 9.04; Gaithersburg – 7.24,</u>
	184			<u>7.23, 7.13, 8.13; and Germantown – 8.30;</u> [or] or
186by the Montgomery County Board of Education.186	185	((7)	a house built by high school students under a program operated
	186			by the Montgomery County Board of Education.[[.]][[: or]]

187	[[(8) a multifamily dwelling unit with 3 or more bedrooms in a
188	multifamily structure; or]]
189	[[(9)]] [[(8) an office-to-residential conversion when the building is
190	adaptively reused or renovated for multifamily housing[[;]].]]
191	* * *
192	52-55. Tax rates.
193	* * *
194	(d)[(d)] The Director of Finance, after advertising and holding a public
195	hearing as required by Section 52-17(c), must adjust the tax rates set
196	in or under this Section effective on July 1 of each odd-numbered year
197	in accordance with the update to the Growth and Infrastructure Policy
198	using the latest student generation rates and average Montgomery
199	County Public School construction costs. The Director must calculate
200	the adjustment to the nearest multiple of one dollar. The Director must
201	publish in the County Register the amount of this adjustment not later
202	than May 1 of each odd-numbered year.
203	* * *
204	[(3) <u>Calculation of impact tax rates.</u> The tax rates must reflect the
205	County's cost to construct a student seat, reducing the rates by a
206	factor equivalent to the portion of funding for capacity-adding
207	projects in the adopted school CIP attributed to State Aid.]]
208	* * *
209	(f) [A three-bedroom multi-family dwelling unit located in an Infill Impact
210	Area must pay the tax at 40% of the otherwise applicable rate.] [[Any
211	single-family [[detached residential or detached single-family]]
212	attached or detached dwelling [[units]] unit with a gross floor area of
213	<u>1,800 square feet or less must pay the tax at 50 percent of the otherwise</u>

214	annli	cable rate.]] A 3-bedroom multi-family dwelling unit located in an
215		Impact Area must pay the tax at 40 percent of the otherwise
216		cable rate.
217	$[(\underline{g}) \underline{An} \ \underline{o}$	ffice-to-residential conversion when demolition is involved in the
218	conv	ersion of office to multifamily or single-family attached housing
219	must	pay the tax at 50 percent of the otherwise applicable rate.]]
220	[[<u>(h)]](g)</u>	Stacked flats must pay the multifamily low-rise applicable rate.
221	[[<u>(i)]](h)</u>	A 1-bedroom garden apartment must be calculated using the
222	<u>high</u>	rise residential rate if the preliminary plan was approved before
223	Janu	<u>ary 1, 2025.</u>
224		* * *
225	52-59. Utilization	n Premium Payment.
226		* * *
227	(c) The	Director of Finance, after advertising and holding a public hearing,
228	must	adjust the rates set in or under this Section effective on July 1 of
229	each	odd-numbered year in accordance with the update to the
230	[Sub	division Staging] Growth and Infrastructure Policy using the latest
231	stude	ent generation rates and school construction cost data. The Director
232	must	calculate the adjustment to the nearest multiple of one dollar. The
233	Direc	ctor must publish the amount of this adjustment not later than May
234	1 of	each odd-numbered year.
235		* * *
236	(e) The	Department of Finance must retain funds collected under this
237	Secti	on in an account to be appropriated for:
238	<u>(1)</u>	any public school improvement that adds capacity designed to
239		alleviate overutilization in the school service area from which the
240		funds were collected <u>; or</u>

241	<u>(2)</u>	for capital projects adding capacity at any school adjacent to the
242		school for which the funds were collected. Adjacent schools must
243		be determined using the Planning Board's Annual School
244		Utilization Report.
245		* * *
246	Sec. 2. [[T	ransition]] Expedited Effective Date. The Council declares that
247	this legislation is	necessary for the immediate protection of the public interest. The
248	amendments mad	e in Section 1 take effect on January 1, 2025, and must apply to
249	any application for	or a building permit filed on or after January 1, 2025.

Approved:

ACC ...

Andrew Friedson, President, County Council *Approved:*

Marc Elrich, County Executive This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

November 12, 2024

Date

Date

Date