

MEMORANDUM

April 1, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AMihill*

SUBJECT: **Public Hearing/Action:** Bill 7-16, Technical Corrections

Bill 7-16, Technical Corrections, sponsored by Lead Sponsor County Council, was introduced on March 15, 2016. Action is scheduled following this hearing.

Bill 7-16 corrects technical, typographical, grammatical, and codification errors in, and makes stylistic, clarifying, and conforming amendments to, several provisions in County law. Bill 7-16 would also reorganize Chapter 52 of the County Code (Taxation). This bill represents an accumulation of technical and stylistic errors that individually were not significant enough to warrant separate corrective legislation, but which now cumulatively justify a technical corrections bill. This legislation is a result of the continuous vigilance and technical skills of Tammy Seymour of the County Attorney's Office, who is responsible for editing the County Code.

After introduction, additional corrections were necessary. These changes, which were incorporated into the attached bill, are:

- Page 24, line 555: change §52-47 to §52-48
- Page 26, line 616: change §52-108(e) to §52-107(e)

This packet contains:

Bill 7-16
Legislative Request Report

Circle #

1
42

Bill No. 7-16
Concerning: Technical Corrections
Revised: 3/28/2016 Draft No. 4
Introduced: March 15, 2016
Expires: September 15, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

AN ACT to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-201

Chapter 2, Administration
Sections 2-42B and 2-43

Chapter 8, Buildings
Section 8-40 and 8-55

Chapter 11B, Contracts and Procurement
Section 11B-1, 11B-33A, and 11B-45

Chapter 20A, Special Obligation Debt
Section 20A-1

Chapter 24, Health and Sanitation
Sections 24-11B and 24-65

Chapter 27, Human Rights and Civil Liberties
Section 27-68

Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property
Sections 30C-4, 30C-5, and 30C-9

Chapter 51, Swimming Pools
Section 51-16A

Chapter 52, Taxation
Sections 52-18V and 52-21

Chapter 53, Taxicabs
Sections 53-213 and 53-235

Chapter 55, Tree Canopy
Section 55-3

By amending, renumbering, renaming, and adding

Chapter 52, Taxation

Article I, General

Sections 52-1, 52-2, 52-3, 52-4, 52-5, 52-6, 52-7, 52-8, 52-9, 52-10, 52-11, 52-12, 52-13, 52-14, 52-15, 52-16, 52-16A, 52-16B, 52-17, 52-18, 52-19, 52-20, 52-21, 52-22, 52-23, and 52-24

Article II, Tax Sales

Sections 52-25, 52-26, 52-27, and 52-28

Article III, Real Property Transfer Tax

Sections 52-29, 52-30, 52-31, 52-32, 52-33, 52-34, 52-35, 52-36, 52-37, and 52-38

Article IV, Development Impact Tax for Transportation Improvements

Sections 52-39, 52-40, 52-41, 52-42, 52-43, 52-44, 52-45, 52-46, 52-47, 52-48, 52-49, 52-50, and 52-51

Article V, Development Impact Tax for Public School Improvements

Sections 52-52, 52-53, 52-54, 52-55, 52-56, 52-57, 52-58, and 52-59

Article VI, Expedited Development Approval Excise Tax

Sections 52-60, 52-61, 52-62, 52-63, 52-64, and 52-65

Article VII, Tobacco Tax

Sections 52-66, 52-67, 52-68, 52-69, 52-70, and 52-71

Article VIII, Excise Tax on Electronic Cigarettes

Sections 52-72, 52-73, 52-74, 52-75, and 52-76

Article IX, Carryout Bag Tax

Sections 52-77, 52-78, 52-79, 52-80, 52-81, 52-82, and 52-83

Article X, Property Tax Credits

Sections 52-84, 52-85, 52-86, 52-87, 52-88, 52-89, 52-90, 52-91, 52-92, 52-93, 52-94, 52-95, 52-96, 52-97, 52-98, 52-99, 52-100, 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, 52-107, and 52-108

2015 Laws of Montgomery County, Chapter 37
Section 3

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 1A-201, 2-42B, 2-43, 8-40, 8-55, 11B-1, 11B-33A, 11B-45, 20A-1, 24-11B, 24-65, 27-68, 30C-4, 30C-5, 30C-9, 51-16A, 53-213, 53-235, and 55-3 are amended as follows:

1A-201. Establishing departments and principal offices.

(a) Executive Branch.

* * *

(2) [If the Charter or County law does not designate an entity in paragraph (1) as a department or a principal office, the] The County Executive must determine whether the entity is a department or a principal office [as follows]:

(A) [an entity] Entities that [primarily serves] directly serve the public [is a department] are departments; and

(B) [an entity] Entities that [primarily provides] provide internal support to other parts of County government [is a] are principal [office] offices.

* * *

2-42B. Functions; Advisory Committee.

(a) Functions. The Department of Permitting Services is responsible for:

(1) reviewing building plans and specifications, building permits, occupancy permits, and licensing facilities for compliance with fire prevention law. In exercising these functions, the Director must consult with the [Director of] Fire [and Rescue Services] Chief in all matters involving the interpretation, application, or revision of fire prevention laws and codes.

2-43. Organization and functions.

* * *

Any reference in this Code or in regulation or other document to “superintendent of police” or “superintendent” means “Director of Police,” or “Chief of Police,” or “Director[,]” [respectively].

8-40. Credits.

Any person who makes a development approval payment under Section 8-37 may reduce that payment by:

- (a) any amount the person paid under Chapter 52 Article [VII] IV (development impact tax for transportation improvements) or Chapter 52 Article [VIII] VI ([construction] expedited development approval excise tax) for the building that is the subject of this payment.

* * *

8-55. Clean [energy] renewable energy technology required.

- (a) By [[6 months after date of enactment]] December 10, 2014, the County Executive must establish, by Method 1 Regulation, a Clean Energy Plan that includes a specific amount of on-site clean energy that must be installed on any new or existing County facility. This Plan must include:

* * *

11B-1. Definitions.

Unless the context indicates otherwise, the following terms have the following meanings:

* * *

County-based bidder or offeror means a person that has its principal place of business in Montgomery County, as further defined by Executive regulation adopted under Section 11B-8

* * *

11B-33A. Wage requirements.

* * *

(g) Wage reporting.

* * *

(2) *Prohibition against retaliation.* Except as provided in paragraph [(3)] (8), a covered employer must not discharge or in any other manner discriminate or retaliate against an employee, who performed direct, measurable work under the contract, because the employee:

* * *

(3) The prohibition against retaliation under paragraph [(2)] (7) does not apply to an employee who has access to wage information of other employees or applicants as part of the employee's essential job functions and discloses the wages of other employees or applicants to individuals who do not otherwise have access to the information, unless the disclosure is in response to:

* * *

11B-45. Disposition of real property.

* * *

(e) In addition to the process required under subsection (a), before the disposition of any real property owned or controlled by the County (other than a property which has either nominal value or an appraised value lower than \$100,000) becomes final:

* * *

The Director must adjust the \$100,000 floor in this subsection on July 1 every third year by the percentage increase or decrease in the applicable Consumer Price Index, or any successor index, during the

previous 3 calendar years, rounded to the nearest \$1000. The Council may waive the public hearing required by this subsection if it concludes that a hearing on a particular proposed disposition is not necessary to properly assess the proposed action. If the Council does not act under this subsection within 60 days after the Executive has submitted the proposed action, the proposed action is automatically approved. The Council may extend the 60-day deadline by resolution if the Council President has informed the Executive, within 30 days after the Executive submitted the proposed action, that the Council has not received all information necessary to review the proposed action. If the 60 day deadline would fall during August or from December 15 through December 31, the deadline is automatically extended until the next scheduled Council session. This subsection and subsection (c) do not apply to any disposition of property that will be used primarily for housing development if the recipient legally commits to the Director of the Department of Housing and Community Affairs that at least 30% of the housing units built on the property will be moderately priced dwelling units or other units that are exempt from the development impact tax under Section [52-49(g)(1)-(4)] 52-41(g)(1)-(4).

20A-1. [[Definitions; special obligation debt]] Special Obligation Debt.

* * *

[24-11B] 24-8B. Bodywork Establishments.

* * *

24-65. Members.

* * *

(c) The Executive must invite the following to serve as ex officio members:

* * *

(7) A representative of [the] either the United States Department of Veterans Affairs or the Maryland Department of Veterans Affairs;

27-68. Minimum wage required.

* * *

[(d)] (c)

* * *

30C-4. Administration; rates.

* * *

(b) Every trespass towing company must register with the Office and must file a schedule of its rates for each action connected with the towing or storage of unauthorized vehicles. The Office may disapprove a rate that exceeds a maximum rate set under Section [30C-2] 30C-3.

* * *

(e) A property owner must not order the towing of an unauthorized vehicle unless the property owner has entered into a written contract that authorizes a towing company to tow vehicles from the owner's property. This provision does not apply if the towing company is the record owner of the property from which a vehicle is towed. The property owner and the towing company must keep on file each contract that is in effect, or that was terminated within the previous 12 months. The Office, the Police Department, and the owner of any vehicle towed by the company may inspect and copy any contract during normal business hours. The Office may issue model contracts that meet the requirements of this Chapter.

Any new written contract must include:

(1) a statement that the property owner is responsible for posting proper and sufficient signage to notify the public of parking restrictions;

(2) a statement that the property owner is responsible for expressly authorizing the towing of a particular vehicle, except as allowed under [30C-5(c)(10)] 30C-5(c)(8), and that the existence of this contract does not constitute express authorization;

* * *

30C-5. Public notice; tow procedures.

* * *

(c) *Tow procedures.*

(1) Except as provided in subsection [(c)(10)] (c)(8), a towing company must not tow a motor vehicle from private property unless the property owner has, directly or through an agent, expressly authorized the towing of the particular vehicle.

* * *

30C-9. Redemption and storage procedures.

(a) *Storage of towed vehicles.* A towing company must immediately deliver a towed vehicle directly to a storage site that complies with the following conditions:

* * *

(5) The storage site must remain open and have personnel on-site for redemption of vehicles [at] 24 hours per day, seven days a week.

* * *

(e) *Receipt.* Upon receiving payment, a towing company must furnish the vehicle owner a receipt on a form approved by the Office. The receipt must:

* * *

(4) include photographic evidence of the violation required under subsection [30C-5(c)(11)] 30C-5(c)(9); and

* * *

51-16A. Defibrillators.

* * *

[(d)] (c)

* * *

[(e)] (d)

* * *

53-213. Additional criteria to deny a license.

* * *

(b) The Director may decline to issue or renew a license to any licensee or applicant:

* * *

(3) who has failed to keep the licensed taxicab in continuous operation as required by Section [53-227] 53-226; or

53-235. Inspections.

* * *

(c) Each driver must respond to an oral request within 60 minutes when any trip record required under Section [315] 53-314 is requested during a field investigation by an inspector or law enforcement officer. Each fleet or association must make available a direct telephone line to the Department and the County Police Department on which the fleet or association must transmit any record it possesses of any trip taken or dispatched on the same or the previous day, within 60 minutes after any inspector or law enforcement officer requests the record.

* * *

55-3. Definitions.

* * *

Person means:

[(a)] (1) to the extent allowed by law, any agency or instrument of the federal government, the state, any county, municipality, or other political subdivision of the state, or a unit of any of them;

[(b)] (2) an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind;

[(c)] (3) any partnership, firm, common ownership community or other homeowners' association, public or private corporation, or [a] an affiliate or subsidiary of any of them; or

[(d)] (4) any other entity.

Sec. 2. Articles I (Sections 52-1, 52-2, 52-3, 52-4, 52-5, 52-6, 52-7, 52-8, 52-9, 52-10, 52-11, 52-12, 52-13, 52-14, 52-15, 52-16, 52-16A, 52-16B, 52-17, 52-18, 52-19, 52-20, 52-21, 52-22, 52-23, and 52 24), II (Sections 52-25, 52-26, 52-27, and 52-28), III (Sections 52-29, 52-30, 52-31, 52-32, 52-33, 52-34, 52-35, 52-36, 52-37, and 52-38), IV (Sections 52-39, 52-40, 52-41, 52-42, 52-43, 52-44, 52-45, 52-46, 52-47, 52-48, 52-49, 52-50, and 52-51), V (Sections 52-52, 52-53, 52-54, 52-55, 52-56, 52-57, 52-58, and 52-59), VI (Sections 52-60, 52-61, 52-62, 52-63, 52-64, and 52-65), VII (Sections 52-66, 52-67, 52-68, 52-69, 52-70, and 52-71), VIII (Sections 52-72, 52-73, 52-74, 52-75, and 52-76), IX (Sections 52-77, 52-78, 52-79, 52-80, 52-81, 52-82, and 52-83), and X (Sections 52-84, 52-85, 52-86, 52-87, 52-88, 52-89, 52-90, 52-91, 52-92, 52-93, 52-94, 52-95, 52-96, 52-97, 52-98, 52-99, 52-100, 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, 52-107, and 52-108) are amended, renumbered, renamed, and added as follows:

Article I. [In] General.

52-1. Date of finality generally.

217 * * *

218 **52-2. Date of finality for tax purposes; when taxes due and taxable; date when**

219 **taxes overdue; penalty for late payment of taxes; when improvements**

220 **assessable.**

221 * * *

222 **[52-3. Reserved.]**

223 **[52-4] 52-3. Annual levy.**

224 * * *

225 **[52-4A] 52-4. Authorization to issue an estimated personal property tax bill.**

226 * * *

227 **52-5. Abatement of small amounts of tax due.**

228 * * *

229 **52-6. Tax anticipation certificates-Authority of council to issue; purpose; sale.**

230 * * *

231 **52-7. Tax anticipation certificates for county property taxes.**

232 * * *

233 **52-8. Certification of payment of taxes; fees; liability for errors, etc.**

234 * * *

235 In addition, the director of finance shall charge and collect a fee which shall

236 be established by the county executive by written regulation adopted under method

237 (3) of section 2A-15 of this Code for each certification of payment or nonpayment

238 of any farmland transfer tax due under [section 52-21] Section 52-31.

239 All such certifications shall certify the taxes that are paid or unpaid

240 according to the records of the county but neither the director of finance nor any

241 official authorized by him to make such certificate shall be personally liable for

242 any error in such certificate unless the error be caused by his willful, capricious or

243 fraudulent act. In the event of the failure to list on such certificate unpaid taxes for

244 the period covered by such certificate, or the failure to list properly payment or

245 nonpayment of the farmland transfer tax due under [section 52-21] Section 52-31,
 246 the liability of the county on such certificate shall be limited to the amount of such
 247 unpaid taxes, interest and penalties.

248 **52-9. Listing and assessment of personal property.**

249 * * *

250 **[52-9A] 52-10. Assessment of certain machinery and equipment.**

251 * * *

252 **[52-10] 52-11. Manufacturing machinery and farm implements exempt from**
 253 **personal property taxes.**

254 * * *

255 **52-12. Special revenue tax on trailer coach parks.**

256 * * *

257 **52-13. Special mass transit facilities tax.**

258 * * *

259 **52-14. Fuel-energy tax.**

260 * * *

261 **52-15. Telephone tax.**

262 * * *

263 **52-16. Room rental and transient tax.**

264 * * *

265 **52-16A. Admissions and amusement tax.**

266 * * *

267 **52-16B. Recordation Tax.**

268 * * *

269 **[52-16C. Reserved.]**

270 **52-17. Additional taxing powers; prohibited taxes.**

271 * * *

272 **52-18. Appeal tax court.**

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[52-18B] 52-19. Moderate-income multifamily rental housing facility real property tax deferral.

* * *

[52-18C] 52-20. Residential real property tax deferral-Government-initiated rezonings.

* * *

[52-18D] 52-21. Excise tax, property lien.

* * *

[52-18F] 52-22. Residential real property tax referral-General.

* * *

(h) *Limits on Deferrals.* The accumulation of deferred taxes and accrued interest must not exceed [50 percent] 50% of the full cash value of the property, as determined by the Supervisor of Assessments, or a lesser amount elected by the taxpayer and specified in the agreement required under subsection (l). When the maximum amounts have been reached, those amounts may continue to be deferred until any of the events specified in subsection (k) occur. An owner who receives a tax deferral under this Section must not also receive a tax deferral under Section [52-18C] 52-20.

* * *

[52-18G] 52-23. Property tax refund-Disabled veterans and blind persons.

* * *

[52-18M] 52-24. Payments in lieu of taxes for certain housing developments.

* * *

Article [IV] II. Tax Sales.

[52-36] 52-25. Sale of property for taxes generally.

* * *

[52-37] 52-26. Purchase of property by county; issuance of certificates of indebtedness, etc.

* * *

[52-38] 52-27. Sale of properties purchased by county at public auction.

* * *

[52-39] 52-28. Describing owners as heirs of a named person; conveyance to devisees or heirs of purchaser.

* * *

Article [II] III. Real Property Transfer Tax.

[52-19] 52-29. Definitions.

* * *

(a) *Consideration*: Such term shall include everything of value included in the actual price paid or to be paid to a transferor or to a third party on behalf of a transferor for the property transferred, including, but not limited to, cash, bonds, stock, documents evidencing monetary value, choses in action, property either real or personal, payment by way of fees, labor or services, instruments of credit, notes, deeds of trust, mortgages, assumption of liability for debt incurred by another and cancellation of a debt. Consideration shall be presumed to be not less than the total full cash value of the property based on the most recent notice of assessment. For the purposes of the farmland transfer tax contained in [section 52-21(d)] Section 52-31(d), consideration for the transfer of land previously assessed as farmland shall be presumed to be not less than the total full cash value as computed by the supervisor of assessments at the request of the director of finance, as if the land were not assessed as farmland. These presumptions may be

rebutted by clear and convincing evidence. The director may make a final determination of consideration pursuant to [section 52-25] Section 52-36 of the Code.

(b) *Transfer*: The acts of the parties, or act or operation of law, by which:

(1) The title to property or a leasehold interest in property is conveyed from a person, firm, corporation, legal entity, or government agency to another; or

(2) Real property subject to [section 52-21] Section 52-31 is transferred to a government agency on the assessment records and removed from the tax rolls under the laws of eminent domain.

* * *

[52-20] 52-30. Authority to levy tax.

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[52-21] 52-31. Levied; amount.

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(e) * * *

“Rezoned to a more intensive use” does not include:

(1) A zoning from a residential zone to a[,] residential floating zone if the approved floating zone plan, including any amendments to the plan, does not increase the total number of permitted dwelling units and does not permit commercial or industrial uses, but the transfer must be subject to any tax otherwise due under this subsection if at any time an amendment to the floating zone plan increases the total number of permitted dwelling units or permits commercial or industrial uses;

* * *

(g) On cooperative housing, [four (4) percent] 4% of the value of the consideration for the initial transfer of stock or other evidence of membership in a cooperative housing corporation or similar entity where such stock corresponds to a residential unit which is being converted from rental status to a system of cooperative housing corporation ownership under which title to a multi-unit residential facility is held by a corporation, the shareholders or members of which, by virtue of such ownership or membership, are entitled to enter into an occupancy agreement for a particular residential unit.

* * *

(6) The tax levied by this subsection shall be paid prior to the actual transfer of the stock or other evidence of membership. The tax shall be paid to the county at the office of the director of finance and shall be evidenced by the affixing of an official stamp upon the stock certificate, membership certificate or other instrument of conveyance, showing the amount of the tax paid. At the time of payment, the person paying such tax shall present to the director, in a form prescribed by the director, a signed statement setting forth the actual and true value of the consideration for the transfer. The person paying the tax shall be given a receipt for such payment. This paragraph shall be applicable to this subsection only and shall supersede any of the provisions of [section 52-22] Section 52-32, to the extent they are inconsistent.

* * *

[52-22] 52-32. When payable; evidence of payment on conveyance; receipt for payment.

381 * * *

382 **[52-23.] 52-33. Conveyances not to be accepted for recordation unless**

383 **stamped.**

384 * * *

385 **[52-24] 52-34. Certain transfers exempt from tax.**

386 * * *

387 (a) (1) A transfer of any interest in property is not subject to tax if the

388 property is transferred to:

389 * * *

390 (2) However, an exemption must not be granted to a transferor

391 under Section [52-21(d)] 52-31(d) unless the transferor is a

392 nonprofit hospital or nonprofit religious or charitable

393 organization, association or corporation, or a municipal, County

394 or State government or an instrumentality, agency or political

395 subdivision thereof.

396 * * *

397 **[52-24A] 52-35. Deferred payment.**

398 * * *

399 **[52-25] 52-36. Consideration or valuation understated.**

400 * * *

401 **[52-26] 52-37. Refund of tax when transfer not effected.**

402 * * *

403 **[52-27] 52-38. Penalty for violation of article.**

404 * * *

405 **[Article V. Reserved.]**

406 **52-40. Reserved.]**

407 **Article [VII] IV. Development Impact Tax for Transportation Improvements.**

408 **[52-47] 52-39. Definitions.**

* * *

Impact tax district means a planning policy area or combination of planning policy areas described under Section [52-49(c)] 52-41(c).

Impact tax district transportation program means the transportation improvement program described under Section [52-58] 52-50.

Impact transportation improvement means an improvement listed in Section [52-58] 52-50.

* * *

[52-48] 52-40. Findings; purpose and intent.

* * *

[52-49] 52-41. Imposition and applicability of development impact taxes.

* * *

(b) An applicant for a building permit must pay a development impact tax in the amount and manner provided in this Article, unless a credit in the full amount of the applicable tax applies under Section [52-55] 52-47 or an appeal bond is posted under Section [52-56] 52-48.

* * *

[52-50] 52-42. Collection of development impact taxes.

* * *

(c) The Department of Permitting Services must not issue a building permit for development that is not exempt from the development impact tax unless:

- (1) the applicant has paid the applicable development impact tax;
- (2) the applicant is entitled to a credit under Section [52-55] 52-47 in the amount of the applicable development impact tax; or
- (3) an appeal has been taken and a bond or other surety posted under Section [52-56] 52-48.

* * *

(f) If any person fails to pay the tax due under Section [52-51] 52-43, that person is liable for:

* * *

(j) Section [52-18D] 52-21 applies to this tax. The lien imposed under this Article has the same priority and may be enforced in the same manner as a lien imposed in case of nonpayment of County real property taxes.

* * *

The rate of the tax or Payment due is the rate in effect when the tax or Payment is paid. A permittee may appeal the imposition or calculation of the tax or Payment under Section [52-56] 52-48. If the Department of Permitting Services or a municipality revokes or suspends a building permit or issues a stop-work order solely because the permittee did not pay any tax or Payment due under this Article, the permittee or any other party must not appeal the permit revocation or suspension or the stop work order issuance, or any modification of either, under Chapter 8. If the appealing party posts a bond or other sufficient surety satisfactory to the County Attorney as provided in Section [52-56] 52-48, the Department or municipality must reissue or reinstate the building permit or revoke the stop-work order.

[52-51] 52-43. Calculation of development impact tax.

(a) The Department of Permitting Services must calculate the amount of the applicable development impact tax due for each building permit by:

(1) determining the applicable impact tax district and whether the permit is for development that is exempt from the tax under Section [52-49(f)] 52-41(f);

* * *

(3) determining the applicable tax under Section [52-57] 52-49;
and

* * *

(c) If the type of proposed development cannot be categorized under the definitions of nonresidential and residential in Section [52-47] 52-39, the Department must use the rate assigned to the type of development which generates the most similar traffic impact characteristics.

* * *

[52-52] 52-44. Annual report.

* * *

(b) a list of each building exempted from the tax during the previous calendar year under Section [52-49(g)] 52-41(g) or taxed at a rate of \$0 under Section [52-57] 52-49, and the tax that otherwise would have been paid for that building; and

* * *

[52-53] 52-45. Restrictions on use and accounting of development impact tax funds.

(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] 52-50 located anywhere in the County, except as provided in subsections (c) and (h). 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.

* * *

(d) The Department of Finance must maintain and keep adequate

financial records for each account that must:

* * *

(3) Ensure that the disbursement of funds from each account is used exclusively for the financing of the transportation improvements listed in Section [52-58] 52-50.

* * *

[52-54] 52-46. Refunds.

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

(1) the County has not appropriated the funds for impact transportation improvements of the types listed in Section [52-58] 52-50, or otherwise formally designated a specific improvement of a type listed in Section [52-58] 52-50 to receive funds, by the end of the sixth fiscal year after the tax is collected;

* * *

(d) The Director of Permitting Services must investigate each claim and hold a hearing if the petitioner requests a hearing. Within 3 months after receiving a petition for refund of the impact tax, the Director of Permitting Services must provide the petitioner, in writing, with a decision on the impact tax refund request. The decision must include the reasons for the decision, including, as appropriate, a determination of whether impact tax funds collected from the petitioner, calculated on a first-in-first-out basis, have been appropriated or otherwise formally designated for impact transportation improvements of the types listed in Section [52-58] 52-50 within 6 fiscal years. If a refund of the impact tax is due the petitioner, the Director of Permitting

Services must notify the Department of Finance and, if the property is located in Gaithersburg or Rockville, the finance director of that city.

* * *

[52-55] 52-47. Credits.

* * *

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section [52-58] 52-50 if the improvement reduces traffic demand or provides additional transportation capacity. However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction program that operates on or relieves traffic on a State road or an improvement to a State road that is included in a memorandum of understanding between the County and either Rockville or Gaithersburg.

* * *

[52-56] 52-48. Appeals.

* * *

[52-57] 52-49. Tax rates.

* * *

[52-58] 52-50. Use of impact tax funds.

* * *

[52-59] 52-51. Transportation Mitigation Payment.

* * *

Article [XII] V. Development Impact Tax for Public School Improvements.

[52-87] 52-52. Definitions.

In this Article all terms defined in Section [52-47] 52-39 have the same meanings, and the following terms have the following meanings:

* * *

[52-88] 52-53. Findings; purpose and intent.

* * *

[52-89] 52-54. Imposition and applicability of tax.

(a) An applicant for a building permit for a residential development must pay a development impact tax for public school improvements in the amount and manner provided in this Article before a building permit is issued for any residential development in the County unless:

(1) a credit for the entire tax owed is allowed under Section [52-93] 52-58; or

(2) an appeal bond is posted under Section [52-56] ~~[[52-47]]~~ 52-48.

(b) Except as expressly provided in this Article, this tax must be levied, collected, and administered in the same way as the tax imposed under Article [VII] IV. All provisions of Article [VII] IV apply to this tax unless the application of that Article would be clearly inconsistent with any provision of this Article. This tax is in addition to the tax imposed under Article [VII] IV, and any tax paid under this Article must not be credited against any tax due under Article [VII] IV.

* * *

(e) If the type of proposed development cannot be categorized under the residential definitions in Section [52-47] 52-39 and [52-87] 52-52, the Department must use the rate assigned to the type of residential development which generates the most similar school enrollment characteristics.

[52-90] 52-55. Tax rates.

* * *

(d) 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)] 52-54(c)(1)-(4) must pay the tax at 50% of the applicable rate in subsection (a).

* * *

[52-91] 52-56. Accounting; use of funds.

* * *

[52-92] 52-57. Refunds.

(a) Except as provided in this Section, Section [52-54] 52-46 applies to any petition for a refund of taxes paid under this Article. Subsections [52-54(a)(1)] 52-46(a)(1) and (d) do not apply to taxes paid under this Article.

(b) Any person who has paid a tax under this Article may apply for a refund of the tax if the County has not appropriated the funds for public school improvements of the types listed in Section [52-91(d)] 52-56(d) by the end of the sixth fiscal year after the tax is collected.

(c) The Director of Permitting Services must investigate each claim and hold a hearing at the request of the petitioner. Within 3 months after receiving a petition for refund, the Director must provide the petitioner, in writing, with a decision on the refund request. The Director must specify the reasons for the decision, including, if a refund is claimed under subsection (b), a determination of whether funds collected from the petitioner, calculated on a first-in-first-out basis, have been appropriated or otherwise formally designated for public school improvements of the types listed in Section [52-91(d)] 52-56(d) within 6 fiscal years.

[52-93] 52-58. Credits.

(a) Section [52-55] 52-47 does not apply to the tax under this Article. A property owner must receive a credit for constructing or contributing

to an improvement of the type listed in Section [52-91(d)] 52-56(d), including costs of site preparation. A credit must not be allowed for the cost of any land dedicated for school use, including any land on which the property owner constructs a school.

* * *

(c) MCPS must:

* * *

(3) determine whether the improvement is a public school improvement of the type listed in Section [52-91(d)] 52-56(d),

* * *

(e) (1) A property owner must receive a credit for constructing or contributing to the cost of building a new single family residence that meets Level I Accessibility Standards, as defined in Section [52-18U(a)] 52-107(a).

* * *

(3) Application for the credit and administration of the credit be in accordance with Subsections [52-18U(e)] [[52-108(e)]] 52-107(e) and (f).

* * *

[52-94] 52-59. School Facilities Payment.

* * *

Article [VIII] VI. Expedited Development Approval Excise Tax.

52-60. Payment

* * *

52-61. Rates.

* * *

52-62. Exemptions.

* * *

52-63. Credits.

Any person who pays an expedited development approval tax under Section 52-60 may reduce that tax by:

- (a) any amount the person paid under Article [VII] IV (development impact tax) for any building that is the subject of this tax; and

* * *

52-64. Payments.

* * *

[52-64A] 52-65. Collection and administration; interest and penalties; violation; lien; annual report; use of funds.

- (a) The provisions of Section [52-50] 52-42, except subsection (c), apply to the payment and collection of the expedited development approval excise tax as if it were the development impact tax.

* * *

Article [XI] VII. Tobacco Tax.

[52-81] 52-66. Definitions.

* * *

[52-82] 52-67. Imposition of tax.

* * *

[52-83] 52-68. Tobacco Tax - Exemption.

* * *

[52-84] 52-69. Enforcement.

* * *

[52-85] 52-70. Overdue tax - interest.

If the vendor does not pay the tax when due under Section [52-76(e)] 52-67(e), the vendor must pay to the Director, in addition to the tax due, interest at the rate of one percent for each month or fraction of a month that the tax is overdue.

[52-86] 52-71. Penalties.

- (a) If a vendor does not pay the tobacco tax when due under Section [52-76(e)] 52-67(e), the vendor is subject to a Class C civil penalty for each taxable tobacco product for which a tax has not been paid.

* * *

- (d) Section [52-18D] 52-21 applies to the tobacco tax imposed under this Article.

Article [XIII] VIII. Excise Tax on Electronic Cigarettes.

[52-95] 52-72. Definitions.

* * *

[52-96] 52-73. Tax levied; rate.

* * *

[52-97] 52-74. Remittance.

- (a) The tax levied under Section [52-96] 52-73 is due and payable for each month on the last day of the next month.

* * *

- (c) If any dealer transports or causes to be transported into the County an electronic cigarette product, that dealer is liable for the payment of the tax imposed under Section [52-96] 52-73 unless that dealer obtains from the supplier of the electronic cigarette product a written certification, in a form approved by the Director, that the supplier is liable for and is paying the tax.

[52-98] 52-75. Cessation of business.

* * *

[52-99] 52-76. Collection; interest and penalties; violation.

- (a) If any person does not pay the Director the tax due under Section [52-96] 52-73, that person is liable for:

* * *

(c) Every person liable for any tax under Section [52-96] 52-73 must preserve for 3 years suitable records necessary to determine the amount of the tax. The Director may inspect and audit the records at any reasonable time.

(d) Any failure to pay the tax when due under Section [52-97] 52-74, and any violation of this Section [52-97] 52-74 or this Section, is a Class A violation. Each violation is a separate offense. A conviction under this subsection does not relieve any person from paying the tax.

(e) Section [52-18D] 52-21 applies to this tax.

[52-100. Reserved.]

Article [XIV] IX. Carryout Bag Tax.

[52-101] 52-77. Definitions

* * *

[52-102] 52-78. Tax imposed.

* * *

(b) Each retail establishment that provides a carryout bag to a customer must collect the amount of the tax imposed under subsection (a) when the customer makes any payment for goods in person, through the Internet, by telephone, by facsimile, or by any other means. The retail establishment must hold the taxes required to be collected under this Section in trust for the County until remitted as required under Section [52-103] 52-79.

* * *

[52-103] 52-79. Remittance.

(a) Except as provided in subsection (b), on or before the 25th of each month, each retail establishment must remit the full amount of the tax

collected for all carryout bags provided to a customer during the previous month, less the amount retained under Section [52-102(c)] 52-78(c).

(b) A retail establishment is only required to remit the taxes to the Director when the cumulative taxes collected under [section 52-102(a)] Section 52-78(a) since the previous remittance, if any, exceeds \$100.

* * *

[52-104] 52-80. Interest and penalties.

(a) If a retail establishment does not remit to the Director any tax owed under Section [52-103] 52-79 when due, the retail establishment is liable for:

* * *

[52-105] 52-81. Prohibited conduct.

* * *

[52-106] 52-82. Regulations.

* * *

[52-107] 52-83. Enforcement.

* * *

Article X. Property Tax Credits.

[52-11] 52-84. Real property tax credits for permanently and totally disabled homeowners.

* * *

[52-11A] 52-85. Homeowners property tax credit.

* * *

[52-11B] 52-86. Credit to offset certain income tax revenues.

* * *

[Article III] 52-87. Scenic Easement Tax Credit.

738 **[52-28. Definitions.]** (a) Definitions. * * *

739 **[52-29. Tax credit generally.]** (b) Tax credit generally. * * *

740 **[52-30. Basic requirements.]** (c) Basic requirements. To qualify for a tax credit,
741 the following basic requirements must be met:

742 [(a)] (1) * * *

743 [(b)] (2) * * *

744 [(c)] (3) * * *

745 [(d)] (4) * * *

746 [(e)] (5) * * *

747 [(f)] (6) * * *

748 **[52-31. Standards and categories of credits.]** (d) Standards and categories of
749 credits. * * *

750 [(a)] (1) * * *

751 [1.] (A) * * *

752 [2.] (B) * * *

753 [a.] (i) * * *

754 [b.] (ii) * * *

755 [(b)] (2) * * *

756 [1.] (A) * * *

757 [2.] (B) * * *

758 [a.] (i) * * *

759 [b.] (ii) * * *

760 **[52-32. Determination and duration of tax credit.]** (e) Determination and
761 duration of tax credit. * * *

762 [(a)] (1) * * *

763 [(b)] (2) * * *

764 [(c)] meets the basic requirements, together with the standards of one

of the categories in [Section 52-31] paragraph (d).

* * *

[52-33. Valuation, assessment and condemnation.] (f) Valuation, assessment, and condemnation. * * *

[52-34. Application for tax credit.] (g) Application for tax credit.

(1) The owner of such real property or his duly authorized agent [shall] must on or before [sixty (60)] 60 days [prior to] before the annual date of finality or semi-annual date of finality, whichever may be applicable, file with the [county council] County Council a claim for such tax credit in such form as may be required by the [council] Council. [Such] Any application [shall] must include a description of the property on which the scenic easement is to be granted and [shall] must be signed by all owners, holders of encumbrances, and other parties in interest. The [county council shall then] County Council must determine whether the property conforms to and meets the basic requirements and standards of one of the categories provided in [section 52-31] paragraph (d). If it does, the applicant [shall] must then submit a scenic easement deed and a certificate of title prepared by a member of the bar of the court of appeals of Maryland showing the effect of such easement [upon] on the land described therein. [Such] Any easement [shall] must not be preceded by any prior interest to secure a debt or otherwise which would affect the priority of [such] the easement.

(2) If deemed necessary by the [council] Council, a survey by a registered land surveyor or professional engineer may be required[; if]. If required, [such] the survey [shall] must show

the land described, the location of the improvements thereon,
the area of land subject to the easement, and a site location
sketch showing its relation to the geographical features which
relate to its scenic and open space value. The expense of this
survey and the title certificate may be assumed by the grantee
or the [county council] County Council in its discretion, if a
request is made therefor in the original application. The [county
council shall then] County Council must either accept the
scenic easement and grant the tax credit or reject the application
and deny the credit. If the [council] Council accepts the
easement, the tax credit [shall become] becomes effective upon
recordation of the deed in the land records of the [county]
County. The [county council shall] County Council must issue
an appropriate notice to be delivered by the landowner to the
[director of finance] Director of Finance.

[52-35. Interpretation.] (h) Interpretation. * * *

[Article VI] 52-88. Historic Preservation Tax Credit.

[52-41. Tax credit generally.] (a) Tax credit generally. * * *

[52-42. Qualifications for tax credit.] (b) Qualifications for tax credit.

[(a)] (1) * * *

[(1)] (A) * * *

[(2)] (B) * * *

[(A)] (i) * * *

[(B)] (ii) * * *

[(3)] (C) * * *

[(4)] (D) * * *

[(b)] (2) * * *

819 [(1)] (A) * * *

820 [(2)] (B) * * *

821 **[52-43. Use of tax credit.]** (c) Use of tax credit.

822 [(a)] (1) The tax credit is [25 percent] 25% of the taxpayer's qualified
823 expenses under [section 52-42] paragraph (b).

824 [(b)] (2) * * *

825 **[52-44. Application for tax credit; appeals.]** (d) Application for tax credit;
826 appeals.

827 [(a)] (1) * * *

828 [(1)] (A) * * *

829 [(2)] (B) An application must include receipts and an oath or
830 affirmation by the taxpayer that the receipts are for
831 qualified expenses under [section 52-42] paragraph (b).

832 [(3)] (C) * * *

833 [(4)] (D) * * *

834 [(5)] (E) The County Director of Finance may require
835 additional information and documentation from the
836 taxpayer, and may reject all or part of the claimed
837 expenses for lack of adequate documentation or if the
838 claimed expenses do not qualify under [section 52-42]
839 paragraph (b). The Director must notify the taxpayer of
840 the Director's decision on the application.

841 [(b)] (2) * * *

842 **[52-45. Penalties.]** (e) Penalties.

843 [(a)] (1) * * *

844 [(b)] (2) * * *

845 **[52-46. Regulations.]** (f) Regulations. * * *

846

847 **[Article IX] 52-89. Conservation Land Tax Credit.**

848 **[52-65. Definitions.] (a) Definitions.**

849 * * *

850 [(a)] * * *

851 [(b)] * * *

852 **[52-66. Amount of credit.] (b) Amount of credit.**

853 [(a)] (1) * * *

854 [(b)] (2) * * *

855 [(1)] (A) * * *

856 [(2)] (B) * * *

857 **[52-67. Allowance and duration of tax credit.] (c) Allowance and duration of tax**
 858 **credit.**

859 [(a)] (1) * * *

860 [(b)] (2) * * *

861 [(c)] (3) * * *

862 [(1)] (A) * * *

863 [(2)] (B) * * *

864 [(3)] (C) * * *

865 [(d)] (4) * * *

866 [(e)] (5) If a conservation easement referenced in Section
 867 [52-65(a)(2)(A)] 52-89(a)(2)(A) is terminated, or if a land trust
 868 sells conservation land subject to a resale agreement to any
 869 person other than a government agency or another land trust,
 870 the owner of the land must repay the County all credits allowed
 871 under this Article and interest computed at the rate applicable to
 872 unpaid taxes when the taxes were due.

873 **[52-68. Administration of tax credit.]** (d) Administration of tax credit.

874 [(a)] (1) * * *

875 [(b)] (2) * * *

876 [(c)] (3) * * *

877 [(d)] (4) * * *

878 **[Article X] 52-90. New Jobs Tax Credit and Enhanced New Jobs Tax Credit.**

879 **[52-69. Tax credits.]** (a) Tax credits. * * *

880 **[52-70. Definitions.]** (b) Definitions. * * *

881 [(a)] * * *

882 [(b)] * * *

883 [(c)] * * *

884 [(d)] * * *

885 **[52-71. Eligibility for tax credit.]** (c) Eligibility for tax credit.

886 [(a)] (1) * * *

887 [(1)] (A) * * *

888 [(2)] (B) * * *

889 [(b)] (2) * * *

890 [(1)] (A) * * *

891 [(2)] (B) * * *

892 [(c)] (3) * * *

893 [(1)] (A) * * *

894 [(2)] (B) * * *

895 [(3)] (C) * * *

896 [(4)] (D) * * *

897 [(5)] (E) * * *

898 [(d)] (4) * * *

899 **[52-72. Amount of tax credit; pass-through to lessees.]** (d) Amount of tax credit;

900 pass-through to lessees.

901 [(a)] (1) * * *

902 [(1)] (A) * * *

903 [(2)] (B) * * *

904 [(3)] (C) * * *

905 [(b)] (2) * * *

906 [(1)] (A) * * *

907 [(2)] (B) * * *

908 [(c)] (3) * * *

909 **[52-73. Recapture of tax credit.]** (e) Recapture of tax credit.

910 [(a)] (1) * * *

911 [(b)] (2) * * *

912 [(c)] (3) * * *

913 **[52-74. Administration of tax credit.]** (f) Administration of tax credit.

914 [(a)] (1) * * *

915 [(b)] (2) * * *

916 [(c)] (3) * * *

917 [(1)] (A) * * *

918 [(2)] (B) * * *

919 [(3)] (C) * * *

920 [(d)] (4) * * *

921 [(e)] (5) * * *

922 **[Article XI] 52-91. Brownfields Property Tax Credit.**

923 **[52-75. Definitions.]** (a) Definitions. * * *

924 [(a)] * * *

925 [(b)] * * *

926 [(c)] * * *

927	[(d)]	*	*	*
928	[(e)]	*	*	*
929	[(f)]	*	*	*
930	[(g)]	*	*	*
931	[(h)]	*	*	*
932	[(i)]	*	*	*
933	[(j)]	*	*	*

934 **[52-76. Participation.] (b) Participation.** * * *

935 **[52-77. Property Tax Credits.] (c) Property tax credits.**

936	[(a)] (1)	*	*	*
937	[(b)] (2)	*	*	*
938	[(1)] (A)	*	*	*
939	[(2)] (B)	*	*	*

940 **[52-78. Applicability.] (d) Applicability.** The tax credits in [Section 52-77]
 941 paragraph (c) apply for:

942	[(a)] (1)	*	*	*
943	[(b)] (2)	*	*	*

944 **[52-79. Contribution to Fund.] (e) Contribution to Fund.** * * *

945 **[52-80. Termination of Credit.] (f) Termination of credit.** * * *

946	[(a)] (1)	*	*	*
947	[(b)] (2)	*	*	*

948 **[52-11C] 52-92. Property tax credit — senior citizens of limited income.**

949 (a) The Director of Finance must allow a tax credit each year against the
 950 general County tax and all special service area taxes imposed on any
 951 real property that is owned by, and is the principal residence of, an
 952 individual who:

953 (1) is at least 65 years old; and

(2) qualifies to receive either the state Homeowners' Property Tax Credit or the County supplement to the Homeowners' Property Tax Credit under Section [52-11A] 52-85, or both.

(b) For each taxable year, the credit under this Section equals 50% of the total state and County credit awarded for that tax year under state law and Section [52-11A] 52-85.

* * *

[52-18A] 52-93. Tax credit for certain nonprofit organizations.

* * *

[52-18E] 52-94. Day care property tax credit.

* * *

[52-18H] 52-95. Personal property tax-Research and development exemption.

* * *

[52-18I] 52-96. Property tax credit-Leased property-Religious organizations.

* * *

[52-18J] 52-97. Property tax credit for Audubon Naturalist Society

* * *

[52-18K] 52-98. Property tax credit - fire sprinkler systems.

* * *

[52-18L] 52-99. Property tax credits - arts and entertainment district.

* * *

[52-18N] 52-100. Property tax credit — surviving spouse of law enforcement officer or rescue worker.

* * *

[52-18O] 52-101. Home computer telecommuting incentive.

* * *

[52-18P] 52-102. Property tax credit — nonprofit swim clubs.

* * *

[52-18Q] 52-103. Property tax credit — energy and environmental design.

* * *

[52-18R] 52-104. Property tax credit — renewable energy.

* * *

[52-18S] 52-105. Property tax credit — publicly sponsored business incubator.

* * *

[52-18T] 52-106. Property tax credit — accessibility features.

* * *

[52-18U] 52-107. Property tax credit — level I and level II accessibility standards.

* * *

(c) *Amount of Credit.* The tax credit permitted by this Section must be as follows:

(1) For features meeting Level I Accessibility Standards, certified costs of up to \$3,000 less any credit received against the Development Impact Tax for School Improvements under Section [52-93] 52-58 for those features and less any funds or assistance received for the accessibility feature.

(2) For features meeting Level II Accessibility Standards, certified costs of up to \$10,000 less any credit received against the Development Impact Tax for School Improvements under Section [52-93] 52-58 for those features and less any funds or assistance received for the accessibility feature.

* * *

[52-18T] 52-108. Burtonsville Enterprise Zone Property.

* * *

[52-18W] 52-109. Property tax credit — reduced rent for elderly or disabled tenants.

* * *

Sec. 3. Section 3 of Chapter 37 of the 2015 Laws of Montgomery County is amended as follows:

Section 3. Reporting. When a development proposes at least [25 percent] 25% affordable dwelling units under Section [52-49(c)5] 52-41(g)(5) and Section [52-89(c)5] 52-54(c)(5), the Department of Housing and Community Affairs must report to the Council the location of the development, the total number of units in the development, and the number of affordable units within 30 days from the date of the agreement to build MPDUs. If a development with [25 percent] 25% of affordable dwelling units does not obtain an agreement to build MPDUs with the Department of Housing and Community Affairs, then the Department of Permitting Services must report to the Council the use of any impact tax exemption under [52-49(c)5] 52-41(g)(5) and Section [52-89(c)5] 52-54(c)(5) within 30 days from the date the exemption is granted.

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 7-16
Technical Corrections

DESCRIPTION: Makes technical, typographical, grammatical, and other non-substantive corrections to County law.

PROBLEM: Codifying several new laws revealed several technical and other non-substantive errors that could confuse a person trying to follow or enforce County law.

GOALS AND OBJECTIVES: To correct technical and other non-substantive errors in the County Code.

COORDINATION: Council legal staff and County Attorney's Office.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Not applicable.

EXPERIENCE ELSEWHERE: Not applicable.

SOURCE OF INFORMATION: Amanda Mihill, Council Staff (240) 777-7815
Tammy Seymour, Office of the County Attorney (240) 777-6789

APPLICATION WITHIN MUNICIPALITIES: The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.

PENALTIES: Not applicable.