UPDATED

GO Item #2
July 24, 2025
Worksession

M E M O R A N D U M

July 22, 2025

TO: Government Operations and Fiscal Policy (GO) Committee

FROM: Christine M.H. Wellons, Chief Legislative Attorney

SUBJECT: Bill 5-25, Demolition Tax for Affordable Housing Production

PURPOSE: Worksession – recommendation expected

Expected Attendees:

Ehsan Motazedi, Deputy Director, Department of Permitting Services (invited)
Pofen Salem, Manager, Department of Housing and Community Affairs (invited)
Anita Aryeetey, Office of Management and Budget (invited)
Lisa Govoni, Housing, Infrastructure, and Zoning Supervisor, Department of Planning
Ken Silverman, Housing Opportunities Commission (invited)
Nancy Feldman, Chief, Division of Fiscal Management, Department of Finance

Bill 5-25, Demolition Tax for Affordable Housing Production, sponsored by Lead Sponsor Councilmember Mink and Co-Sponsor Council Vice President Jawando, was introduced on February 11, 2025. A public hearing occurred on March 18, 2025.

Bill 5-25 would:

(1) establish an excise tax on certain demolitions and renovations of single-family homes;
(2) specify the uses of tax revenues for affordable housing initiatives; and
(3) generally amend the law concerning taxation.

BACKGROUND

The purpose of Bill 5-25 is to raise revenue for affordable housing initiatives in the County. As described more specifically below, the bill would achieve this purpose by creating an excise tax on the activities of demolishing or partially demolishing a single-family home. Other jurisdictions, including Evanston, Illinois, have enacted similar excise taxes.

BILL SPECIFICS

Under the bill, an excise tax would apply to certain total demolitions and partial demolitions of attached or detached single-family homes. A "partial demolition" would be defined as a construction or renovation that will result in the destruction or removal of at least 50% of an existing single-family home.

The tax rate would be $20,000 per demolition or partial demolition. The rate could be increased by Council resolution after a public hearing. In addition, the rate would be increased annually based upon the Consumer Price Index. The tax would be due at the issuance of a permit by the Department of Permitting Services for the demolition or partial demolition of the single-family home.

A demolition or partial demolition of a single-family home would be exempt from the tax if:

- the home is deemed unsafe or condemned under Sections 8-10 or 26-13;

- the owner covenants that the replacement single-family home will be a moderately priced dwelling unit under Chapter 25A;

- the owner covenants to own and occupy the replacement single-family home as their principal residence for a minimum of 5 years;

- the owner covenants that the gross floor area of the replacement single-family home will be equal to or less than the gross floor area of the demolished or partially demolished home;

- the owner demonstrates that the replacement single-family home is necessary due to a medical condition or disability of an individual who will reside in the replacement single-family home; or

- the owner demonstrates that the demolition or partial demolition is necessary due to a Force Majeure or other factors beyond the owner's control and reasonable ability to remedy.

Revenues from the new excise tax would be dedicated to the Montgomery Housing Initiative and used exclusively for Housing Production Fund.

SUMMARY OF IMPACT STATEMENTS

Racial Equity and Social Justice. "The Office of Legislative Oversight (OLO) anticipates Bill 5-25 could have a positive impact on racial equity and social justice (RESJ) in the County. Black and Latinx community members could disproportionately benefit from the creation of a dedicated revenue stream that increases the reliability of developing affordable housing units through the Housing Production Fund (HPF). However, the actual RESJ impact of this Bill will depend on measures that are taken to prevent the potential displacement of Black, Indigenous, and Other People of Color (BIPOC) community members in communities where HPF-funded developments are located."

Fiscal Impact. According to the Office of Management and Budget, "The bill is not expected to meaningfully increase County expenditures. The Department of Housing and Community Affairs (DHCA) and DPS estimate that both departments are able to administer the bill with existing staff resources. DPS will require some modifications to its permitting system and online permitting application, but DPS' existing information technology (IT) staff are likely able to make these modifications without significant additional costs. The number of demolitions that may be exempt from the tax is unknown.

“For illustrative purposes, this analysis assumes that approximately one-third of all permitted demolitions would be subject to the bill, generating approximately $1.3 million in FY26 revenues, with annual inflationary adjustments further increasing revenue in the outyears.”

Economic Impact. “The Office of Legislative Oversight (OLO) anticipates that Bill 5-25 would have a short-term negative impact on economic conditions in the County in terms of the Council’s priority economic indicators. By imposing a $20,000 excise tax on certain demolitions and renovations of single-family homes, the Bill would primarily affect developers that specialize in building individual homes and buyers, particularly in the areas of Bethesda, Potomac, and Chevy Chase where this has been most common in the County. Developers would be required to pay the excise tax to receive a permit for demolition from the County. As a result, the tax would increase capital expenditures for affected developers, which, holding all else equal, would decrease business income. However, developers would likely pass through some or all the additional costs to buyer, who would pay higher home prices.

“In the long term, the Bill could provide economic benefits by using excise tax revenues to support the construction of mixed-income, mixed-use developments. These investments could increase the supply of affordable housing in the County. While the magnitude of the Bill’s effect on affordable housing is uncertain, these long-term benefits may offset the Bill’s short-term economic costs.”

Climate Assessment. **“**The Office of Legislative Oversight (OLO) anticipates Bill 5-25 will likely have a positive impact on the County’s contribution to addressing climate change as the Bill proposes a demolition tax and its revenue would go towards the development of affordable housing that prioritize transit-oriented locations and sustainable construction and design practices.”

SUMMARY OF PUBLIC TESTIMONY

The County Council held a public hearing on Bill 5-25 on March 18, 2025 where six speakers testified. The Council received an additional eleven pieces of written testimony. Testimony was received both in support and opposition to Bill 5-25.

Those in support of the bill argued that the proposed excise tax on demolitions of single-family homes would help generate revenue for affordable housing initiatives through the Housing Production Fund. Additionally, supporters argued that the bill would have a positive economic impact on the County as the revenue generated from the demolition tax would be a cost-effective tool to develop additional affordable housing. One speaker requested an amendment to the bill that would allocate a portion of the demolition tax revenue to Montgomery County Public Schools.

Testifying in favor of Bill 5-25, Delegate Vaughn Stewart stated: “By introducing a modest excise tax on demolitions—particularly in high-cost areas where redevelopment often leads to the construction of larger, less affordable homes—this bill ensures that new development contributes to affordable housing."

Those in opposition expressed concerns regarding the negative economic impact of the demolition tax, specifically citing that this would act as an additional tax on housing. Concerns included that the tax could lead to a decrease in demolition permits, which would hinder new construction activities, resulting in unintended adverse effects on the local economy and housing market. Additionally, concerns were raised that this bill would create financial burdens for small business owners and builders.

ISSUES FOR THE COMMITTEE'S CONSIDERATION

The Committee might wish to consider the following issue and potential amendments in connection with Bill 5-25.

1. <u>Information about Demolitions and Partial Demolitions in the County</u>

The Fiscal Impact statement explains, regarding the number of demolitions that might be subject to the excise tax under Bill 5-25:

> DPS estimates that the number of demolition permits each year could range from 175 to 225 per year, based on FY23 and FY24 actuals. This analysis assumes that on average, 200 demolition permits will be issued each year. The bill provides six exemptions that may apply to a majority of demolitions in the County. Without precise data on the potential proportion of demolitions that could be exempt from the tax, actual revenues are unknown. For illustrative purposes, this analysis estimates that approximately $1.3 million would be generated if one-third of all demolitions are subject to the tax. If the actual number of demolitions subject to the tax is higher or lower than approximately 67 each year, revenues will correspondingly fluctuate. Outyear revenue projections increase for inflation. The Department of Finance assumes outyear inflationary adjustments of three percent, but actual inflationary adjustments may vary.

For additional context, the Department of Planning has provided the following historical data about the issuance of demolition permits:

Single-Family Detached Demolition Permits	
Permit Issue Year	**# of SFD Demolition Permits**
2010	139
2011	202
2012	188
2013	198

2014	208
2015	253
2016	228
2017	223
2018	219
2019	222
2020	168
2021	209
2022	229
2023	202
2024	210
2025	112
Total	**3,210**
Average (2010 -2024)	**207**

Source: Montgomery Planning Analysis of Department of Permitting Services Data

The following table shows the number and percentage of single-family home tear downs that are owner-occupied after the rebuild. Note: these single-family homes were not necessarily owned by the same owner before or during the demolition.

Owner-Occupancy of SFD Teardown/Rebuilds				
Permit Issue Year	**Owner-Occupied**	**Non Owner-Occupied**	**% Owner-Occupied**	**Total***
2010	109	8	93%	117
2011	162	19	90%	181
2012	152	14	92%	166
2013	168	16	91%	184
2014	179	13	93%	192
2015	198	29	87%	227

2016	191	20	91%	211
2017	172	26	87%	198
2018	167	41	80%	208
2019	153	39	80%	192
2020	134	19	88%	153
2021	165	35	83%	200
2022	162	40	80%	202
2023	129	40	76%	169
Total	**2241**	**359**	**86%**	**2,600**

Source: Montgomery Planning Analysis of State Department of Assessment and Taxation and Department of Permitting Services Data

*Totals do not match demolition permit numbers due to null values and join errors in occupancy data

The Planning Department also has provided maps to illustrate the location of demolition permits for single-family homes issued in recent years. See © 41-42.

2. Information about Recordation and Transfer Taxes

For general context regarding other potentially relevant taxes: if an owner is subject to the demolition tax under Bill 5-25, and subsequently sells the property, recordation and transfer taxes also could be implicated.

Recordation taxes. The specific recordation tax rates and prescribed uses of revenues are specified under Section 52-16B of the County Code:

(a) *Rates*. The rates and the allocations of the recordation tax, levied under Md. Tax-Property Code §§12-101 to 12-118, as amended, are:

(1) for each $500 or fraction of $500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, including the amount of any mortgage or deed of trust assumed by a grantee;

(A) $2.08, of which the net revenue must be reserved for and allocated to the County general fund; and

(B) $2.37, of which the net revenue must be reserved for and allocated to the cost of capital improvements to public schools; and

(2) if the consideration payable or principal amount of debt secured;

(A) exceeds $500,000 and is less than or equal to $600,000, an additional $2.30 for each $500 or fraction of $500 of the amount over $500,000; and

(B) exceeds $600,000 and less than or equal to $750,000, an additional $5.75 for each $500 or fraction of $500 of the amount over $600,000; and

(C) exceeds $750,000 and less than or equal to $1,000,000, an additional $6.33 for each $500 or fraction of $500 of the amount over $750,000; and

(D) exceeds $1,000,000, an additional $6.90 for each $500 or fraction of $500 of the amount over $1,000,000

(3) *Allocation of revenue collected.* The net revenue collected under paragraph (2) must be reserved for and allocated as follows:

(A) one-third for the cost of County government capital improvements; and

(B) one-third for rent assistance for low and moderate income households, which must not be used to supplant any otherwise available funds; and

(C) one-third for the cost of capital improvements for public schools.

(b) *Exemption.* The first $100,000 of the consideration payable on the conveyance of any owner-occupied residential property is exempt from the recordation tax if the buyer of that property is an individual and intends to use the property as the buyer's principal residence by actually occupying the residence for at least 7 months of the 12-month period immediately after the property is conveyed.

The County raised Recordation Tax rates in 2023, and the FY2026 budget assumes approximately $50 million in Recordation Tax revenues in FY2026, an increase of 10% over FY2025. Schedule C3 - Revenues Detailed By Agency, Fund and Type Schedule | Montgomery County Maryland Operating Budget

Transfer taxes. Transfer taxes are governed by Chapter 52, Article III of the County Code, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-150865. In general, the transfer tax rates for improved residential property are as follows.

(1) One-quarter of one (0.25) percent on property where the value of the full consideration is less than forty thousand dollars ($40,000.00);

(2) One-half of one (0.50) percent on property where the value of the full consideration is forty thousand dollars ($40,000.00) or more, but less than seventy thousand dollars ($70,000.00); and

(3) One (1) percent on property where the value of the full consideration is seventy thousand dollars ($70,000.00) or more.

The FY2026 budget assumes approximately $105 million in transfer tax revenues, a 10.5% increase over FY2025. [Schedule C3 - Revenues Detailed By Agency, Fund and Type Schedule | Montgomery County Maryland Operating Budget]

3. Amendment – Exemptions - Multifamily Housing and Nonprofit Ownership

Council President Stewart has recommended the following amendment, which would exempt from the demolition tax: (1) demolitions that result in multifamily housing; and (2) demolitions when the replacement home will be owned by a non-profit and leased or sold to a household of limited income or limited net worth.

Amend lines 31-48 as follows.

(b) The tax under this Article must not apply to the demolition or partial demolition of a single-family home:

(1) deemed unsafe or condemned under Sections 8-10 or 26-13;

(2) if the owner covenants that the replacement single-family home will be a moderately priced dwelling unit under Chapter 25A;

(3) if the owner covenants to own and occupy the replacement single-family home as their principal residence for a minimum of 5 years;

(4) if the owner covenants that the gross floor area of the replacement single-family home will be equal to or less than the gross floor area of the demolished or partially demolished home;

(5) if the owner demonstrates that the replacement single-family home is necessary due to a medical condition or disability of an individual who will reside in the replacement single-family home; **[[or]]**

(6) if the owner demonstrates that the demolition or partial demolition is necessary due to a Force Majeure or other factors beyond the owner's control and reasonable ability to remedy;

(7) if the demolished or partially demolished single-family home is replaced by a multifamily dwelling, including a duplex or triplex; or

(8) if the owner is a nonprofit organization that covenants to offer the replacement single-family home for lease or sale under a program to benefit households of limited income or limited net worth.

4. Amendment - Clarification of the Uses of Funds

The Department of Housing and Community Affairs (DHCA) and Department of Finance have recommended clarifying the language of the bill regarding the use of demolition tax revenues.

The following amendment, which has been reviewed by bond counsel, would clarify that revenues would be used solely for debt service on bonds issued for the Housing Production Fund.

Amend lines 92-96 to read as follows.

(e) *Use of revenues*. Tax revenues under this Article must be:

(1) **[[**dedicated**]]** allocated to the Montgomery Housing Initiative under Section 25B-9; and

(2) used solely **[[**to finance revenue bonds under Chapter 20, Article IV**]]** for Contract Payments under the Funding Agreement for bonds issued by the Housing Opportunities Commission for the Housing Production Fund.

The DHCA and Department of Finance also raised the point that the Committee might want to consider the use of the word "solely" under paragraph (e)(2), above. To the extent there are more funds from the demolition tax than is needed "solely" for contract payments on HOC bonds, the Committee want to consider indicating an alternate permissible use.

Regarding the use of "solely", Council staff offers the following amendment for consideration by the Committee.

Amend subsection (e) to read as follows:

(e) *Use of revenues*. Tax revenues under this Article must be:

(1) **[[**dedicated**]]** allocated to the Montgomery Housing Initiative under Section 25B-9; and

(2) used solely **[[**to finance revenue bonds under Chapter 20, Article IV**]]** for:

(A) Contract Payments under the Funding Agreement for bonds issued by the Housing Opportunities Commission for the Housing Production Fund; or

(B) a purpose under the Montgomery Housing Initiative approved by a Council resolution with the agreement of the Executive.

HOC input about the use of funds. In addition to reviewing the potential amendments, above, the Committee might wish to ask for HOC's input regarding the types of projects that potentially could be supported by the revenues under the bill.

5. Additional Clarifying Amendments -- Office of the County Attorney

The Office of the County Attorney (OCA) has recommended clarifying definitions under the bill. In particular, OCA has noted that the definition of *demolition* under the bill should be clarified in accordance with the terminology currently used under Section 8-27 of the Code.

In addition, OCA noted a disconnect between the definition of *demolish* under Section 8-24 and the definition of *partial demolition* under the bill. A *partial demolition* under the bill means a construction or renovation that requires a permit under Section 8-24 and will result in the "destruction or removal of at least 50 percent of an existing single-family home as determined by the Department." Section 8-27(g) defines *demolish* as a "means to tear down or destroy an entire building or structure, or sixty-seven (67) percent or more of first story exterior walls of a one-family or two-family dwelling unit. Demolish includes the conversion of an exterior wall into an interior wall. Basement and cellar walls are not considered exterior walls[]".

To address OCA's comments, Council staff would suggest the following clarifying amendments to the definitions.

Amend lines 5-26 to read as follows.

In this Article, the following terms have the meanings indicated:

Demolition means the **[[**destruction**]]** demolition or removal of a single-family home under Section 8-27.

*   *   *

Owner means an owner of real property who applies for a permit under Chapter 8 to:

(1) demolish a single-family home on the property; or

(2) partially demolish a single-family home on the property.

Partial demolition means construction or renovation that:

(1) requires a permit under Section 8-24; and

(2) will **[[**result in the destruction or removal of**]]** tear down or destroy at least 50 percent of **[[**an existing single-family home as determined by the Department**]]** the first story exterior walls of a single-family home, including the conversion of an exterior wall into an interior wall. Basement and cellar walls are not considered exterior walls.

*   *   *

These clarifications to the definitions would better align the language under the bill with the existing language under Section 8-27. Council staff notes that there would remain a distinction between a *partial demolition* (of 50 percent or more of first-floor exterior walls) and a total *demolition* (of 67 percent or more of the first-floor exterior walls). This distinction would be purposeful, consistent with the sponsors' intent, to capture within the bill substantial renovations that do not qualify as "demolitions" or "removals" under Section 8-72.

6. <u>Operational Considerations</u>

The OCA has identified potential issues regarding the implementation of Bill 5-25, including:

- DPS would be required under the bill to make determinations about exemptions, including whether the replacement home is necessary for a medical reason, or if the demolition is neccary due to a force majeure; and
- It is unclear whether a "covenant" under the bill, for purposes of the exemptions, would consist of an agreement between the owner and the County.
- Should hardship exemptions be available if a taxpayer is unable to fulfill a covenant to occupy the replacement home for five years?

In response to OCA's points about implementation, Council staff notes that DPS would be responsible for making these determinations under the existing language of the bill (lines 78-83), and staff suggests adding an amendment to allow DPS to adopt necessary regulations.

After line 103, add the following text.

<u>(g)</u> <u>*Regulations*. The Department may adopt regulations under Method (2) necessary to implement this Article, including regulations regarding:</u>

<u>(1)</u> <u>the determination and administration of exemptions under Section 52-115(b);</u>

<u>(2)</u> <u>required documentation under this Section, including certifications or covenants by the owner required to qualify for exemptions under Section 52-115(b); and</u>

<u>(3)</u> <u>record retention requirements under this Section.</u>

Regarding unforeseen circumstances that might cause a property-owner not to fulfill a covenant necessary to receive an exemption from the tax, Council staff suggests that the Committee might wish to consider the following amendment.

Amend lines 31through 48 to read as follows.

(b) The tax under this Article must not apply to the demolition or partial demolition of a single-family home:

(1) deemed unsafe or condemned under Sections 8-10 or 26-13;

(2) if the owner covenants that the replacement single-family home will be a moderately priced dwelling unit under Chapter 25A;

(3) if the owner covenants to own and occupy the replacement single-family home as their principal residence for a minimum of 5 years;

(4) if the owner covenants that the gross floor area of the replacement single-family home will be equal to or less than the gross floor area of the demolished or partially demolished home;

(5) if the owner demonstrates that the replacement single-family home is necessary due to a medical condition or disability of an individual who will reside in the replacement single-family home; **[[**or**]]**

(6) if the owner demonstrates that the demolition or partial demolition is necessary due to a **[[**Force Majeure**]]** force majeure or other factors beyond the owner's control and reasonable ability to remedy; or

(7) if the owner demonstrates that the owner is unable to fulfill a covenant under paragraph (3) due to an unforeseen hardship, such as a loss of employment or a medical condition or disability.

Note: If the Committee adopts the Council President's amendment under Issue #3, above, then paragraph (7) regarding hardship exemptions would become paragraph (9) instead of (7).

Next step: Committee recommendation on whether to enact Bill 5-25.

Bill No. 5-25
Concerning: Demolition Tax for Affordable Housing Production
Revised: 2/5/2025 Draft No. 6
Introduced: February 11, 2025
Expires: December 7, 2026
Enacted: ______
Executive: ______
Effective: ______
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Mink
Co-Sponsor: Council Vice-President Jawando

AN ACT to:
(1) establish an excise tax on certain demolitions and renovations of single-family homes;
(2) specify the uses of tax revenues for affordable housing initiatives; and
(3) generally amend the law concerning taxation.

By adding
Article XI, Excise Tax – Home Demolitions
Sections 52-114, 52-115, 52-116, and 52-117

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added 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:

Sec. 1. Article XI, Sections 52-114, 52-115, 52-116, and 52-117, are added as follows:

Article XI. Excise Tax – Single-family home demolitions

52-114. Definitions.

In this Article, the following terms have the meanings indicated:

Demolition means the destruction or removal of a single-family home under Section 8-27.

Department means the Department of Permitting Services.

Consumer Price Index means the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.

Gross floor area has the meaning stated in Section 1.4.2 of Chapter 59.

Owner means an owner of real property who applies for a permit under Chapter 8 to:

(1) demolish a single-family home on the property; or

(2) partially demolish a single-family home on the property.

Partial demolition means construction or renovation that:

(1) requires a permit under Section 8-24; and

(2) will result in the destruction or removal of at least 50 percent of an existing single-family home as determined by the Department.

Replacement single-family home means a single-family home to be built on the same plot as a demolished or partially demolished single-family home.

Single-family home means one dwelling unit contained in a detached house building type under Section 3.3.1.B of Chapter 59.

52-115. Imposition and applicability of excise tax.

(a) Except as provided in subsection (b), an owner who seeks to demolish or partially demolish a single-family home must pay an excise tax in the manner and amount prescribed by this Article.

(b) The tax under this Article must not apply to the demolition or partial demolition of a single-family home:

(1) deemed unsafe or condemned under Sections 8-10 or 26-13;

(2) if the owner covenants that the replacement single-family home will be a moderately priced dwelling unit under Chapter 25A;

(3) if the owner covenants to own and occupy the replacement single-family home as their principal residence for a minimum of 5 years;

(4) if the owner covenants that the gross floor area of the replacement single-family home will be equal to or less than the gross floor area of the demolished or partially demolished home;

(5) if the owner demonstrates that the replacement single-family home is necessary due to a medical condition or disability of an individual who will reside in the replacement single-family home; or

(6) if the owner demonstrates that the demolition or partial demolition is necessary due to a Force Majeure or other factors beyond the owner's control and reasonable ability to remedy.

52-116. Tax amount.

(a) Except as provided under subsection (b), the tax rate under this Article must be $20,000 for each demolition or partial demolition subject to this Article.

(b) *Amount adjustments*.

(1) *Council resolution*. The Council may establish a rate for the tax that is higher than the rate under subsection (a) by resolution after a public hearing under Section 52-17(c).

(2) *Consumer price index adjustment*.

(A) Effective July 1, 2026 and July 1 of each subsequent year, the Chief Administrative Officer must adjust the dollar amount of the tax rate under subsection (a).

(B) The Chief Administrative Officer must calculate each adjusted amount to the nearest multiple of $10.

(C) The adjusted amount must be equal to the current amount multiplied by the outcome of the most recent published Consumer Price Index at the time of the adjustment divided by the annual value of the Consumer Price Index from the year prior to the current year.

(D) The Chief Administrative Officer must, by March 1 of the year preceding an adjustment, publish the adjusted amount:

(i) in the County Register; and

(ii) on the County website.

52-117. When tax is due; required information; use of funds; penalties.

(a) *Payment required*. The Department must not issue a permit under Section 8-24 for a demolition or partial demolition unless:

(1) the owner has paid the tax due under this Article; or

(2) the permit is exempt from the tax under Section 52-115(b).

(b) *Responsibilities of the Department*. The Department must determine:

(1) whether an application for a permit is subject to the tax under this Article;

(2) whether an exemption under Section 52-115(b) applies to the application; and

(3) the amount of the tax due under this Article.

(c) *Documentation required*. An owner must, at the County's request, submit to the County any information, certification, and documentation required to:

(1) determine the applicability of the tax; and

(2) calculate the amount of the tax due.

(d) *Record retention*. Every person liable for any tax under this Article must preserve for 7 years all records necessary to determine the amount of the tax. The County may inspect the records at any reasonable time.

(e) *Use of revenues*. Tax revenues under this Article must be:

(1) dedicated to the Montgomery Housing Initiative under Section 25B-9; and

(2) used solely to finance revenue bonds under Chapter 20, Article IV.

(f) *Penalties*. A person who fails to pay a tax due under this Article, or who intentionally provides false or misleading information to the County under this Article:

(1) has committed a Class A civil violation; and

(2) is liable for the tax due, a penalty equal to 5 percent of the tax due, and interest on the tax due, as calculated by the Department of Finance.

Sec. 2. Transition. This Act must not apply to an application for a permit under Section 8-24 submitted to the Department prior to the effective date of this Act.

Climate Assessment

Office of Legislative Oversight

Bill 5-25: Demolition Tax for Affordable Housing Production

Summary

The Office of Legislative Oversight (OLO) anticipates Bill 5-25 will likely have a positive impact on the County's contribution to addressing climate change as the Bill proposes a demolition tax and its revenue would go towards the development of affordable housing that prioritize transit-oriented locations and sustainable construction and design practices.

Background and Purpose of Bill 5-25

The Housing Production Fund (HPF) was established by the County Council in 2021. The fund allows the Housing Opportunity Commission (HOC) to finance construction of mixed-income and mixed-use developments in the County. Thirty percent of the units in these developments must be income-restricted, with 20% of the units affordable at or below 50% of the Area Median Income (AMI) and 10% affordable at 65% -70% of the AMI.[1]

Bill 5-25 would establish a $20,000 excise tax on certain demolitions and renovations of single-family homes. This would include partial demolitions of attached or detached single-family homes that result in the destruction or removal of at least 50% of an existing home.[2] Revenues from the new excise tax would be used exclusively for the HPF which allows HOC to finance the construction of mixed-income, mixed-use developments.[3]

The Bill also outlines the following proposed exemptions from the excise tax:

- The existing home is deemed unsafe or condemned under County Code;
- The replacement single-family home would be a moderately priced dwelling unit (MPDU);
- The replacement single-family home would be the owner's principal residence for a minimum of 5 years;
- The gross floor area of the replacement single-family home would be equal or less than equal to the original home's gross floor area;
- It is demonstrated the replacement single-family home is necessary due to a medical condition or disability of an individual that will reside in the home; or
- It is demonstrated the demolition is necessary due to unforeseeable circumstances beyond the owner's control and reasonable ability to remedy.[4]

Bill 5-25, Demolition Tax for Affordable Housing Production was introduced by the County Council on February 11, 2025.

Anticipated Impacts

The Bill proposes a demolition tax and revenue raised will go to the HPF which HOC uses to finance affordable housing developments. The HOC's 5-year strategic plan (2024-2029) cites their commitment to creating and maintaining sustainable affordable housing in the County.[5]

Some examples of their current and future sustainable housing developments funded through the Housing Production Fund (HPF) include:

- **The Laureate** – The Laureate is a LEED-certified[1] mixed-use, mixed-income residence and is walking distance to the Shady Grove Metro Station. It was the first building funded by the HPF and was designed to be a transit-oriented community.[6]
- **Hillandale Gateway** – Hillandale Gateway will be a LEED-certified mixed-use, mixed-income community. It will be built to Passive House standards, which are high performance energy efficiency standards that require buildings reduce energy needed for heating and cooling of up to 90% and up to 75% in overall energy use, based on standards developed by the Passive House Institute US.[7] A microgrid is planned for the site as well as a neighborhood resiliency hub, which will support the community during an extreme weather event.[8]
- **Wheaton Gateway** – Wheaton Gateway will be a mixed-use residential and retail property and residential buildings will be designed to meet Passive House standards. It will also be walking distance to the Wheaton metro as well as to a planned Bus Rapid Transit station along University Boulevard.[9]

Due to HOC's past and planned projects that create sustainable, affordable housing that are accessible to public transit, it is likely that future projects funded by the HPF will also follow these design principles.[10] Adopting passive house standards will lower their building's operational energy use and emissions related to energy use, which residential energy use accounts for 24% of the County's total greenhouse gas emissions.[11] Further, the affordability of a community's housing stock has a direct correlation to the overall resilience of a community, and on its ability to prepare for current and future risks through the following ways:[12]

- Increasing housing stability which can increase community resilience by building community ties and enabling residents to stay better connected during emergencies; and
- Alleviating cost-burdened households by providing more affordable housing options, which allows these households to have more cash on hand to weather shocks, such as extreme weather events.[13]

[1] LEED (Leadership in Energy and Environmental Design) designates buildings that incorporate best practices in energy efficiency, water conservation, and sustainable building material selection. LEED buildings are designed to minimize their environmental impact. https://www.usgbc.org/leed

OLO cannot discern if the demolition tax would discourage property owners from demolishing single-family homes on their site. The demolition and rebuilding of buildings is extremely carbon intensive due to embodied carbon, which represents total carbon emissions released during the lifecycle of building materials and includes emissions associated with manufacturing building materials, transportation of materials, and disposal of materials.[14] Depending on the size of the new building, the embodied carbon associated with the construction site can be doubled, due to the embodied carbon of the original materials and the new materials used for the new building.[15]

However, the measures put forth could encourage owners of the property to build a new single-family house similar in size and square footage to the old building that was demolished. Larger homes typically require more energy to heat and cool and more building materials to construct, which increases both their embodied carbon and emissions associated with energy use.[16] According to analysis from the planning department, there is a pattern of homes with significantly more square footage replacing homes that were demolished in the County. For the 734 homes recorded as demolished and replaced from 2012 – 2019, the gross floor area of the new home was 152% larger on average, or 2,554 square feet on average.[17]

According to data from the Energy Information Administration (EIA) published for 2022, the annual amount of electricity purchased by an average U.S. home (with an average square footage of 1,799) was 10,791 kilowatt-hours (kWh).[18] [2] OLO notes the 734 homes demolished and replaced from 2012 – 2019 were built, on average, with an additional 2,554 square feet, which is larger than the average home discussed in the EIA dataset.[19] Assuming the house is occupied year round, these homes could consume more than double the amount of electricity compared to the average home in the United States. Mitigating the size of replacement homes after a demolition could reduce greenhouse gas emissions in the County's building sector.

OLO anticipates Bill 5-25 will have a positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity. The Bill's proposed actions will likely lead to an increase in affordable housing units and these buildings will likely use sustainable design and construction as they will be overseen by HOC, which is committed to sustainability.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.[20] OLO does not offer recommendations or amendments as Bill 5-25 is likely to have a positive impact on the County's contribution to addressing climate change,

[2] The figure for average square footage includes single-family homes, multifamily, and mobile homes in the United States. 2022 data broken down by type of home was not available, however in 2020, the EIA reported the average single-family home was 2,264 square feet. From: https://www.eia.gov/consumption/residential/data/2020/hc/pdf/HC%2010.9.pdf

including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

Caveats

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

Purpose of Climate Assessments

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

Contributions

OLO staffer Kaitlyn Simmons drafted this assessment.

[1] Housing Production Fund, Housing Opportunity Commission, Accessed 2/19/2025.
[2] Introduction Staff Report for Bill 5-25, Montgomery County Government, Introduced 2/11/2025.
[3] Ibid.
[4] Introduction Staff Report for Bill 5-25, Montgomery County Government, Introduced 2/11/2025.
[5] HOC Five-Year Strategic Plan 2024-2029, Housing Opportunities Commission, 2024.
[6] A Earth Month Environmental Progress Update from HOC and HOCP, Housing Opportunities Commission, Accessed 2/27/2025.
[7] Passive House Design Guidelines, NYC Housing Preservation and Development, Accessed 2/27/2025; Passive House Certification Criteria, International Passive House Association, Accessed 2/27/2025; Hillandale Gateway Spring 2022 Community Update Release, Housing Opportunities Commission, 2022;
[8] Hillandale Gateway Spring 2022 Community Update Release, Housing Opportunities Commission, 2022; Hillandale Gateway Accelerates Energy Efficiency with Green Bank Financing, Montgomery County Green Bank, 11/8/2024.
[9] Wheaton Gateway FAQ, Wheaton Gateway, Accessed 2/27/2025; Housing Production Fund, Housing Opportunities Commission, Accessed 2/27/2025.
[10] Wheaton Gateway's Role in Achieving Montgomery County's Climate Action Plan, Wheaton Gateway, Accessed 2/27/2025; HOC Five-Year Strategic Plan 2024-2029, Housing Opportunities Commission, 2024.

[11] Passive House FAQ, Passive House Network, Accessed 2/26/2025.; Montgomery County Climate Action Plan, Montgomery County Government, June 2021.
[12] The Community Resilience Benchmarks, Alliance for National and Community Resilience, Accessed 2/24/2025.
[13] Equitable Adaptation Legal & Policy Toolkit: Resilient Affordable Housing, Anti-Displacement, and Gentrification, Georgetown University Climate Center, Accessed 2/24/2025.
[14] C-MORE: Construction Material Opportunities to Reduce Emissions, U.S. EPA, Accessed 2/26/2025.
[15] Combating climate change: A study of embodied carbon, Trellis, 11/8/2021.; Building Reuse: A Proven Climate and Economic Strategy, National Trust for Historic Preservation & American Institute of Architects, Accessed 2/26/2025.
[16] Maximum Size of Single-Family Residences, Sustainable Development Code, Accessed 2/26/2025; The Impact of Increasing Home Size on Energy Demand, U.S. Energy Information Administration, 4/19/2012.
[17] Bill 34-19, Taxation - Development Impact Taxes - Affordable Housing - Housing Impact Fairness Act Staff Report, Montgomery County Planning Department, 11/26/2019.
[18] How much electricity does an American home use?, U.S. Energy Information Administration, Accessed 2/26/2025.; Annual Energy Outlook: Residential Sector Key Indicators and Consumption, U.S. Energy Information Administration, Accessed 2/26/2025
[19] Annual Energy Outlook: Residential Sector Key Indicators and Consumption, U.S. Energy Information Administration, Accessed 2/26/2025
[20] Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 5-25: DEMOLITION TAX FOR AFFORDABLE HOUSING PRODUCTION

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 5-25 could have a positive impact on racial equity and social justice (RESJ) in the County. Black and Latinx community members could disproportionately benefit from the creation of a dedicated revenue stream that increases the reliability of developing affordable housing units through the Housing Production Fund (HPF). However, the actual RESJ impact of this Bill will depend on measures that are taken to prevent the potential displacement of Black, Indigenous, and Other People of Color (BIPOC) community members in communities where HPF-funded developments are located.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.[1] This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.[2]

PURPOSE OF BILL 5-25

The Housing Production Fund (HPF) was established by the County Council in 2021. The fund allows the Housing Opportunity Commission (HOC) to finance construction of mixed-income and mixed-use developments in the County. Thirty percent of the units in these developments must be income-restricted, with 20% of the units affordable at or below 50% of the Area Median Income (AMI) and 10% affordable at 65% -70% of the AMI.[3]

Bill 5-25 would establish a $20,000 excise tax on certain demolitions and renovations of single-family homes. This would include partial demolitions of attached or detached single-family homes that result in the destruction or removal of at least 50% of an existing home. Revenues from the new excise tax would be used exclusively for the HPF.[4]

Bill 5-25 also outlines the following exemptions from the excise tax:[5]

- The existing home is deemed unsafe or condemned under County Code;
- The replacement single-family home would be a moderately priced dwelling unit (MPDU);
- The replacement single-family home would be the owner's principal residence for a minimum of 5 years;
- The gross floor area of the replacement single-family home would be less than or equal to the original home's gross floor area;
- The replacement single-family home is necessary due to a medical condition or disability of an individual that will reside in the home; or

- The demolition is necessary due to unforeseeable circumstances beyond the owner's control and reasonable ability to remedy.

Bill 5-25, Demolition Tax for Affordable Housing Production, was introduced by the County Council on February 11, 2025.

This RESJIS builds on the following RESJISs previously published by OLO:

- Bill 18-24, Housing Policy – Standards and Procedures – Amendments, published in October 2024;[6] and
- Bill 38-23, Tenant Displacement – Right of First Refusal to Buy Rental Housing – Amendments, published in October 2023.[7]

Please refer to these RESJISs for background on housing affordability, the affordable housing shortage and racial equity.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 5-25 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of community members who would benefit from a dedicated revenue source for mixed-income housing projects through the HPF:

- **Community members who demand affordable housing** would benefit from increased funding to the HPF. HPF-funded housing developments provide double the affordable units than those provided by standard housing developments through the County's Moderately Priced Dwelling Units (MPDU) program.[8] Further, 20 percent of units in HPF-funded housing developments have deeper affordability than MPDUs.

  As noted in the RESJIS for Bill 18-24, historical and contemporary racial inequities drive increased demand in affordable housing among Black and Latinx families in the County.[9] As shown in Table A (Appendix), the median incomes of Black and Latinx households are each more than $30,000 less than the median income of all households in the County. Further, as shown in Table B (Appendix), Black and Latinx renter-households are also more likely to be cost-burdened (pay 30 percent or more of income on housing expenses) than White and Asian renter-households. Black families are also largely overrepresented among families who live across properties owned and managed by HOC, the developer of HPF-funded housing.[10]

- **Community members who demand market-rate housing** would also benefit from increased funding to the HPF. Seventy percent of HPF-funded developments are market-rate units. Of note, income from market-rate units allows HOC to sustain the affordability of affordable units.[11] As shown in Table A, the higher income levels of White and Asian community members suggest they would benefit most from the development of market-rate units through the HPF.

Conversely, **community members who demand single-family home demolitions** would be burdened by the excise tax on these demolitions. According to a 2019 report from Montgomery Planning, between 2009 and 2019, 87 percent of single-family home demolitions occurred in District 1.[12] District 1 includes areas of Bethesda, Potomac and Chevy Chase.

As shown in Table C (Appendix), White community members are largely overrepresented in District 1.[13] Asian and Pacific Islander community members are proportionately represented, while Black and Latinx community members are underrepresented. District 1 is also affluent. The median income of the district is $265,145 compared to $152,779 for the County.[14]

Data from Montgomery Planning confirms that affluent community members primarily demand single-family home demolitions. For demolitions between 2014 and 2017, the sales price of homes that were demolished and replaced increased by over $1 million on average. Further, for demolitions between 2012 and 2019, the gross floor area of homes that were replaced increased by an average of 2,554 square feet.[15]

For the second question, OLO considered how Bill 5-25 could affect racial inequities and disparities in housing. As noted in the RESJIS for Bill 38-23, the nationwide shortage in affordable housing exacerbates housing insecurity for BIPOC community members.[16] Housing trust funds such as the HPF are recognized as a best practice for supporting affordable housing development.[17] Bill 5-25 would create a dedicated revenue source for the HPF, which would support its sustainability.[18] Increasing the reliability of developing affordable housing units through the HPF could help reduce housing disparities in the County by race and ethnicity.

Of note, researchers and advocates note that mixed income housing development can contribute to gentrification and to the displacement of lower-income BIPOC community members.[19] As described in one study:[20]

> "Creating communities that remain broadly accessible to lower-income households and residents of color… requires measures that enhance housing and economic opportunities within the larger neighborhood and address the threats of physical, economic, and cultural displacement associated with increased investment."

The study highlights four approaches to reduce the potential adverse impacts of mixed-income housing on BIPOC community members:[21]

- Accounting for potential displacement impacts in the initial design of redevelopment plans;
- Investing in long-term affordable housing when land values are low;
- Pairing market-leveraging efforts with measures that attenuate their ripple effects for residents of targeted neighborhoods (e.g., tenant protections, rent regulations, tenant financial assistance programs, etc.); and
- Enabling residents of revitalized neighborhoods to benefit from employment opportunities generated by investment and keeping commercial and cultural institutions viable.

Conclusion. OLO anticipates Bill 5-25 could have a positive impact on RESJ in the County. Black and Latinx community members could disproportionately benefit from the creation of a dedicated revenue stream that increases the reliability of developing affordable housing units through the HPF. However, the actual RESJ impact of this Bill will depend on measures that are taken to prevent the potential displacement of BIPOC community members in communities where HPF-funded developments are located.

Recommended Amendments

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.[22] OLO anticipates Bill 5-25 could have a positive impact on RESJ. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Table A: Median Household Income by Race and Ethnicity, Montgomery County

Race and ethnicity[23]	Median Household Income
Asian	$143,911
Black	$86,359
White	$160,756
Latinx	$92,050
County	$125,371

Source: Table S0201, 2023 American Community Survey 1-Year Estimates, Census Bureau.

Table B: Cost-Burden Rates of Renter-Occupied Households by Race and Ethnicity, Montgomery County

Race and ethnicity	Cost-Burden Rate
Asian	41.4
Black	57.6
White	50.4
Latinx	59.9
County	53.6

Source: Table S0201, 2023 American Community Survey 1-Year Estimates, Census Bureau.

Table C: District 1 Population by Race and Ethnicity, Montgomery County

Race and ethnicity	District 1 Population	County Population
Asian or Pacific Islander	14.2	14.9
Black	4.6	18.0
White	68.7	43.1
Latinx	8.5	19.5

Source: 2022 Demographic Profile of Council Districts, Montgomery Planning.

[1] Definition of racial equity and social justice adopted from Marlysa Gamblin et al., "Applying Racial Equity to U.S. Federal Nutrition Programs," Bread for the World and Racial Equity Tools.
[2] Ibid.
[3] Housing Production Fund, Housing Opportunities Commission.
[4] Introduction Staff Report for Bill 5-25, Montgomery County Council, Introduced February 11, 2025.
[5] Introduction Staff Report for Bill 5-25.
[6] RESJIS for Bill 18-24, Office of Legislative Oversight, October 3, 2024.
[7] RESJIS for Expedited Bill 38-23, Office of Legislative Oversight, October 13, 2023.
[8] Moderately Priced Dwelling Units (MPDUs) are housing units that are affordable to renters and first-time home buyers making up to 70 percent of the AMI. In housing developments with more than 20 units, between 12.5 to 15 percent of the units must be MPDUs. The percentage of required MPDUs depends on where the housing development is located. Refer to MPDU Program – General and MPDU Developers, Department of Housing and Community Affairs.
[9] RESJIS for Bill 18-24.
[10] Ibid.
[11] Staff Report for PHED and GO Committee Worksession on HOC Housing Production Fund, Montgomery County Council, July 27, 2020, pg. 3.
[12] Montgomery Planning Assessment of Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act, December 5, 2019, pg. 3.
[13] Montgomery Planning's assessment was based on Council district boundaries pre-2022. District 1 continues to include areas of Bethesda, Potomac and Chevy Chase. Further, the demographics District 1 under the new boundaries are similar to its demographics under the previous boundaries. Previously, 71.5 percent of the District 1 population was White, 4.8 percent was Black, 12.0 percent was Asian and 8.5 percent was Latinx. And the average household income was $211,073. Refer to 2016 Demographic Profile of Council Districts, Montgomery Planning.
[14] 2022 Demographic Profile of Council Districts, Montgomery Planning, pg. 6.
[15] Montgomery Planning Assessment of Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act, pg. 3.
[16] RESJIS for Expedited Bill 38-23.
[17] What About Housing? A Policy Toolkit for Inclusive Growth, Grounded Solutions Network, pg. 21; Preserving, Protecting, and Expanding Affordable Housing, ChangeLab Solutions, pg. 41; and Housing Trust Funds, Local Housing Solutions.
[18] Housing Trust Funds, Local Housing Solutions.
[19] Amy T. Khare and Mark L. Joseph, "Prioritizing Inclusion and Equity in the Next Generation of Mixed-Income Communities," Shelterforce, July 12, 2019.
[20] Adèle Cassola, "Promoting Mixed-Income Communities by Mitigating Displacement: Findings from 80 Large U.S. Cities" in *What Works to Promote Inclusive, Equitable Mixed-Income Communities* (Federal Reserve Bank of San Francisco, 2021), pg. 1.
[21] Ibid, pgs. 7-10.
[22] Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council
[23] Data on Native American and Pacific Islander community members is not available for all data points in this RESJIS.

Fiscal Impact Statement

Office of Management and Budget

Bill 5-25	Demolition Tax for Affordable Housing Production
Bill Summary	The bill establishes a $20,000 excise tax for the demolition of at least 50% of a single-family home. The bill provides that the excise tax will be adjusted for inflation annually on July 1, and that the adjusted rate will be published by March 1 preceding the effective date of the adjustment. The bill establishes six exemptions from the tax for (1) single-family homes deemed unsafe or condemned under County Code; (2) owners that covenant to replace the home with a moderately-priced dwelling unit; (3) owners that covenant to own and occupy the replacement single-family home for a minimum of five years; (4) owners that covenant to replace the home with a single-family home with gross floor area that is equal to or less than the demolished or partially demolished home; (5) owners that demonstrate the demolition is necessary due to a medical condition or disability of a resident of the home; and (6) owners that demonstrate the demolition is necessary due to factors beyond the owner's control and reasonable ability to remedy. Prior to issuing a demolition permit, the Department of Permitting Services (DPS) must determine whether a permit application is subject to the tax, whether an exemption applies, and the amount of tax due. The bill provides that the revenue generated from the excise tax is restricted to finance revenue bonds for the Montgomery Housing Initiative fund. The bill establishes that failing to pay the tax, or providing false or misleading information to the County is a Class A civil violation. The bill provides the civil violation results in liability for the the amount of tax due, interest on the tax due, and a monetary penalty of five percent of the tax due.
Fiscal Impact Summary	This analysis assumes that all revenues will be applied to the debt service for the Housing Production Fund supported within the Montgomery Housing Initiative fund. The bill is not expected to meaningfully increase County expenditures. The Department of Housing and Community Affairs (DHCA) and DPS estimate that both departments are able to administer the bill with existing staff resources. DPS will require some modifications to its permitting system and online permitting application, but DPS' existing information technology (IT) staff are likely able to make these modifications without significant additional costs. The number of demolitions that may be exempt from the tax is unknown. For illustrative purposes, this analysis assumes that approximately one-third of all permitted demolitions would be subject to the bill, generating approximately $1.3 million in FY26 revenues, with annual inflationary adjustments further increasing revenue in the outyears.

Fiscal Year	26	27	28	29	30	31	Total
Personnel Costs	$0	$0	$0	$0	$0	$0	$0
Operating Expenses	$1,333,300	$1,373,300	$1,414,500	$1,457,000	$1,500,700	$1,545,700	$8,624,500

Total Expenditures	**$1,333,300**	**$1,373,300**	**$1,414,500**	**$1,457,000**	**$1,500,700**	**$1,545,700**	**$8,624,500**
Revenues	**$1,333,300**	**$1,373,300**	**$1,414,500**	**$1,457,000**	**$1,500,700**	**$1,545,700**	**$8,624,500**
Total Impact	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis	**Expenditures** This analysis assumes that all revenues will be applied to the debt service for the Housing Production Fund supported within the Montgomery Housing Initiative fund. DHCA and DPS do not anticipate that additional staff will be needed to implement the bill. DPS' permitting system and online permitting application will need to be modified to implement the bill. However, these modifications are not expected to create significant additional costs. **Revenues** DPS estimates that the number of demolition permits each year could range from 175 to 225 per year, based on FY23 and FY24 actuals. This analysis assumes that on average, 200 demolition permits will be issued each year. The bill provides six exemptions that may apply to a majority of demolitions in the County. Without precise data on the potential proportion of demolitions that could be exempt from the tax, actual revenues are unknown. For illustrative purposes, this analysis estimates that approximately $1.3 million would be generated if one-third of all demolitions are subject to the tax. If the actual number of demolitions subject to the tax is higher or lower than approximately 67 each year, revenues will correspondingly fluctuate. Outyear revenue projections increase for inflation. The Department of Finance assumes outyear inflationary adjustments of three percent, but actual inflationary adjustments may vary.
Staff Impact	The workload of DPS staff will increase to determine whether demolition permit applications are subject to the tax. However, this additional work is expected to be feasible with existing staff. The DPS IT staff workload may increase in the first year to modify DPS' online permitting system and permitting application, and on an ongoing basis to ensure proper operation of the demolition tax portions of these systems. DHCA estimates that any additional revenue to the Montgomery County Housing Initiative fund can be administered with existing staff.
Actuarial Analysis	The bill is not expected to impact retiree pension or group insurance costs.
Information Technology Impact	DPS IT staff manage the department's permitting system and online permitting application. DPS will need to modify these systems to ensure the required evaluation of the tax applicability and amount are incorporated into the demolition permit administrative process. These modifications are not expected to create significant additional costs.
Other Information	
Later actions that may impact revenue or expenditures if future spending is projected	The bill does not authorize future spending.
Ranges of revenue or expenditures that are uncertain or difficult to project	There is no available data to suggest the potential number of demolition permits that may be subject to the tax, therefore it is impossible to accurately project future revenues. For illustrative purposes, this analysis assumes that approximately one-third of demolitions will be subject to the tax. However, actual exemptions, and thus revenues, may be higher or lower than assumed. It is also possible that future numbers

	of demolition permits may vary from FY23 and FY24 levels. Potential penalty revenues are not assumed in this analysis, but are provided for in the bill. The cost of enforcement activities associated with the penalty provisions are unknown and are also excluded from this analysis.
Contributors	Ehsan Motazedi, Department of Permitting Services Barbara Suter, Department of Permitting Services Todd Fawley-King, Department of Finance Alison C. Dollar, Technology and Enterprise Business Solutions Pofen Salem, Department of Housing and Community Affairs Anita Aryeetey, Office of Management and Budget

Bill 5-25 Demolition Tax for Affordable Housing Production

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 5-25 would have a short-term negative impact on economic conditions in the County in terms of the Council's priority economic indicators. By imposing a $20,000 excise tax on certain demolitions and renovations of single-family homes, the Bill would primarily affect developers that specialize in building individual homes and buyers, particularly in the areas of Bethesda, Potomac, and Chevy Chase where this has been most common in the County. Developers would be required to pay the excise tax to receive a permit for demolition from the County. As a result, the tax would increase capital expenditures for affected developers, which, holding all else equal, would decrease business income. However, developers would likely pass through some or all the additional costs to buyer, who would pay higher home prices.

In the long term, the Bill could provide economic benefits by using excise tax revenues to support the construction of mixed-income, mixed-use developments. These investments could increase the supply of affordable housing in the County. While the magnitude of the Bill's effect on affordable housing is uncertain, these long-term benefits may offset the Bill's short-term economic costs.

BACKGROUND AND PURPOSE OF BILL 5-25

In 2021, the Council established the Housing Production Fund (HPF), which allows the Housing Opportunity Commission (HOC) to finance construction of mixed-income and mixed-use developments in the County. Thirty percent of the units in these developments must be income-restricted, with 20% of the units affordable at or below 50% of the Area Median Income (AMI) and 10% affordable at 65% to 70% of AMI.[1]

Bill 5-25 would establish a $20,000 excise tax on certain demolitions and renovations of single-family homes. This would include partial demolitions of attached or detached single-family homes that result in the destruction or removal of at least 50% of an existing home.[2] Revenues from the new excise tax would be used exclusively for the HPF for financing the construction of mixed-income, mixed-use developments.[3]

The Bill also outlines the following proposed exemptions from the excise tax:

- The existing home is deemed unsafe or condemned under County Code;
- The replacement single-family home would be a moderately priced dwelling unit;
- The replacement single-family home would be the owner's principal residence for a minimum of 5 years;
- The gross floor area of the replacement single-family home would be less than or equal to the original home's gross floor area;

[1] Housing Production Fund, Housing Opportunity Commission, Accessed 2/19/2025.
[2] Introduction Staff Report for Bill 5-25, Montgomery County Government, Introduced 2/11/2025.
[3] Ibid.

- The replacement single-family home is necessary due to a medical condition or disability of an individual that will reside in the home; or
- The demolition is necessary due to unforeseeable circumstances beyond the owner's control and reasonable ability to remedy.[4]

The Council introduced Bill 5-25, Demolition Tax for Affordable Housing Production, on February 11, 2025.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Bill 5-25 on residents and private organizations in relation to Council's priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.[5]

While some local jurisdictions have implemented demolition taxes to help finance affordable housing development, OLO found no existing impact evaluations assessing their economic effects.[6] To analyze the potential effects of the Bill, OLO relied on:

- Broader research on the relationship between housing regulation on home prices; and
- Montgomery Planning's analysis of prior legislation before the Council that proposed an excise tax on certain demolitions and renovations of single-family homes.[7]

OLO uses these sources of information to base its conclusions on the Bill's economic impacts to private organizations and residents, namely certain developers and home buyers.

VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 5-25 are the following:

- Cost pass-through ratio; and
- Total number of affordable housing units.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

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[4] Introduction Staff Report for Bill 5-25, Montgomery County Government, Introduced 2/11/2025.
[5] "Sec. 2-81B, Economic Impact Statements," Montgomery County Code.
[6] Impact evaluations are a core tool of evidence-based policymaking that seek to answer cause-and-effect questions regarding the impact of a policy intervention on a specific outcome(s). Using a randomized control trial or quasi-experimental design, they aim to account for what would have occurred in the absence of a policy intervention by comparing treatment groups (i.e., cases where the policy has been implemented) and control groups (i.e., cases where the policy has not been implemented).Paul J. Gertler et al., *Impact Evaluation in Practice, Second Edition* (Washington, DC: Inter-American Development Bank and World Bank, 2016); Kirsten Collins, "What Is Impact Evaluation?," Text, American University Online, April 2, 2015.
[7] Jason Sartori and Lisa Govoni, "Montgomery Planning Analysis of Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act" (Montgomery County Planning Department, December 5, 2019).

Businesses, Non-Profits, Other Private Organizations

OLO anticipates that Bill 5-25 would have negative impacts on certain private organizations in the County in terms of the Council's priority economic indicators.

By imposing a $20,000 excise tax on certain demolitions and renovations of single-family homes, the Bill would primarily affect developers that specialize in building individual homes.[8] Developers would be required to pay the excise tax to receive a permit for demolition from the County. As a result, the tax would increase capital expenditures (i.e., costs incurred in acquiring or improving a property) for affected developers, which, holding all else equal, would decrease business income. However, developers would likely pass through some or all the additional costs to buyers, as has been demonstrated empirically in the literature on housing regulation and home prices.[9,10]

Analysis from Montgomery Planning suggests that the potential impacts of the excise tax on developers would likely be minor. In its 2019 report on similar legislation before the Council, Montgomery Planning analysts wrote,

> Over the last ten years, there has been an average of 219 single family detached home demolition permits issued per year by the Department of Permitting Services. Approximately 87 percent of the demolition permits occurred in Council District 1, which includes the areas of Bethesda, Potomac, and Chevy Chase.[11]

The analysts found "734 records where transactions occurred both pre and post demolition permit between the years of 2014 and 2017." **Table 1** presents the average price increases following construction of the replacement homes. Throughout the County, the average sales price increased by over $1 million. A $20,000 excise tax would constitute approximately 2 percent of the price increase.

Table 1. Price Increases Following Single-Family Home Demolitions in Montgomery County (2014-2017)

Town/City	Average 1st Sale	Average 2nd Sale	% Increase	Price Increase	$20K Tax as % of Price Increase
Potomac	$854,583	$1,901,000	122%	$1,046,417	1.9
Bethesda	$742,830	$1,736,534	134%	$993,704	2.0
Chevy Chase	$924,328	$2,272,003	146%	$1,347,675	1.5
Cabin John	$567,500	$1,417,500	150%	$850,000	2.4
Kensington	$514,746	$1,337,897	160%	$823,151	2.4
Silver Spring	$297,866	$782,725	163%	$484,860	4.1
Rockville	$781,042	$2,059,242	164%	$1,278,200	1.6
Montgomery County	**$735,083**	**$1,748,385**	**138%**	**$1,013,301**	**2.0**

[8] Ibid.
[9] Raven Molloy, "The Effect of Housing Supply Regulation on Housing Affordability: A Review," *Regional Science and Urban Economics* 80 (January 2020); Joseph Gyourko and Raven Molloy, "Regulation and Housing Supply"; Keith R. Ihlanfeldt, "The Effect of Land Use Regulation on Housing and Land Prices," *Journal of Urban Economics* 61, no. 3 (May 1, 2007): 420–35; Vicki Been, "Impact Fees and Housing Affordability," *Cityscape* 8, no. 1 (2005): 139–85.
[10] For more on the theory of cost pass-through, see RBB Economics, "Cost Pass-Through: Theory, Measurement, and Potential Policy Implications" (Report prepared for the Office of Fair Trading, United Kingdom, June 17, 2014).
[11] Sartori and Govoni, "Montgomery Planning Analysis of Bill 34-19."

While OLO does not have data on the profit margins developers specializing in building individual homes, the Bill is unlikely to deter substantial private sector capital investment in this sub-sector. First, as previously discussed, developers would likely pass through a portion of the costs to buyers. Second, the excise tax represents a marginal portion of the substantial increases in average sale prices following renovation. As a result, developers may be able to offset the cost increase without a major impact on investment decisions.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council's other priority indicators.

Residents

OLO anticipates that Bill 5-25 would have mixed impacts on certain residents in the County in terms of the Council's priority economic indicators.

The Bill would primarily affect buyers of replacement homes, particularly in the areas of Bethesda, Potomac, and Chevy Chase where "boutique" home building has been most common in the County.[12] Buyers would likely pay higher home prices accounting for the excise tax.

Additionally, by using revenues from the new excise tax to finance the construction of mixed-income, mixed-use developments, the Bill would likely benefit certain residents in the long-term by increasing the supply of affordable housing in the County. However, due to information constraints, OLO is unable to estimate the magnitude of the Bill's effect on affordable housing.

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

Net Impact

OLO anticipates that Bill 5-25 would have a short-term negative impact on economic conditions in the County in terms of the Council's priority economic indicators. The $20,000 excise tax on certain demolitions and renovations of single-family homes would primarily affect developers that specialize in building individual homes and buyers, primarily in Bethesda, Potomac, and Chevy Chase. The excise tax would increase capital expenditures for affected developers, which, holding all else equal, would decrease business income. However, developers would likely pass through some or all the additional costs to buyers, who in turn would pay higher home prices.

In the long term, using excise tax revenues to support the construction of mixed-income, mixed-use developments could provide economic benefits by increasing the supply of affordable housing in the County. While the magnitude of the Bill's effect on affordable housing is uncertain, these long-term benefits could help offset the Bill's short-term economic costs.

DISCUSSION ITEMS

Not applicable

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[12] Ibid.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does <u>not</u> represent OLO's endorsement of, or objection to, the Bill under consideration.

AUTHOR

Stephen Roblin (OLO) prepared this report.

March 17, 2025

Carol Stern
[redacted]
Chevy Chase, MD 20815

<u>TESTIMONY Bill 5-25- FAVORABLE</u>
Demolition Tax for Affordable Housing Production

TO: Montgomery County Council

My name is Carol Stern and I am a resident of Chevy Chase in District 1 and a member of Adat Shalom Reconstructionist Congregation in Bethesda. I am providing this testimony in support of Bill 5-25.

My Jewish law, halakah, includes the rights of the poor to housing and it specifically defines housing as one of the obligatory types of tzedakah or charity. The Bible commands that a poor person be granted ¨sufficient for what lacks, according to what is lacking to him. ¨ One talmudic text understands each phrase in that command as referring to a specific type of assistance one might grant a poor person: ¨Sufficient for what he lacks¨–this is a house. ¨What is lacking–this is a bed and table.”

Bill 5-25, Demolition Tax for Affordable Housing Production is exactly in line with Jewish tradition. This bill would establish an excise tax on demolitions of single-family homes in order to generate funds for the Montgomery County Housing Initiative (HIF) for the production of affordable housing. It is estimated that this could bring in 4 million dollars annually. Montgomery County is desperately in need of additional affordable housing so our teachers, police, fireman and other county employees can live in the county where they work. **Every person, regardless of race or income, should have a safe, stable affordable home.**

This demolition tax is the same one used successfully in Evanston, IL and it has NOT acted as a deterrent in Evanston or anywhere else.

I respectfully urge the Council to return a favorable report on Bill 5-25.

March 18. 2025

TESTIMONY IN SUPPORT OF BILL #5-25
Demolition Tax for Affordable Housing

TO: Council President Stewart, Council Vice President Jawando, and Members of the County Council

My name is Deedee Jacobsohn and I am a resident of North Bethesda in District 4. I am writing in support of Bill 5-25, "Demolition Tax for Affordable Housing."

There is a stark need for more housing in Montgomery County, especially affordable housing. When houses are torn down and replaced with larger houses, there is obviously no net increase to the housing stock. Moreover, since the new house will have a significantly higher cost, the demolition and rebuilding exacerbates the problem of housing being unattainable for an increasing number of residents.

The proposed tax on demolition permits will likely not change the number of houses that are torn down and replaced with larger, more expensive dwellings. Furthermore, the exemptions protect homeowners who must demolish their home or who desire to demolish and rebuild their primary dwelling.

However, by allocating the demolition tax to Montgomery County's Housing Production Fund, the replacement of homes with larger, more expensive ones will have the positive effect of creating a bigger Housing Production Fund to finance mixed-income new developments.

What better way to offset the rising cost of single-family homes than by turning something that exacerbates the problem into something that contributes to the solution.

I respectfully urge the County Council to **Support Bill #5-25, Demolition Tax for Affordable Housing.**

Vaughn Stewart
Legislative District 19
Montgomery County

Chief Deputy Majority Whip

Environment and Transportation Committee

Subcommittees

Housing & Real Property

Chair, Motor Vehicle and Transportation

The Maryland House of Delegates
6 Bladen Street, Room 151
Annapolis, Maryland 21401
410-841-3528 · 301-858-3528
800-492-7122 *Ext.* 3528
Vaughn.Stewart@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

Testimony in Support of Bill 5 - 25
Demolition Tax for Affordable Housing Production
Testimony by Delegate Vaughn Stewart
March 18, 2025 | Montgomery County Council

Chair and members of the Montgomery County Council,

I am honored to testify in support of Bill 5-25. I want to extend my gratitude to Councilmembers Kristin Mink and Will Jawando for their leadership in putting forth this critical legislation that will reaffirm the county's commitment to housing affordability.

Montgomery County is facing a housing crisis, with rising home prices and increasing displacement of low- and moderate-income residents. The Housing Production Fund has already demonstrated its ability to catalyze new, affordable supply. A nationwide model, the Fund has generated thousands of new housing units, leveraging public investment to secure additional capital. By introducing a modest excise tax on demolitions—particularly in high-cost areas where redevelopment often leads to the construction of larger, less affordable homes—this bill ensures that new development contributes to affordable housing.

I am a strong supporter of the Housing Production Fund and believe it is one of our county's most valuable tools in solving the affordable housing crisis. I am proud to have sponsored legislation to support the HPF in Annapolis and continue to advocate for increased funding for the program at the state level.

Bill 5-25 represents a strategic investment in the County's future.

I urge the Council to pass Bill 5-25.

March 18, 2025

Montgomery County Council Office Building

100 Maryland Ave 3rd floor

Rockville, MD 20805

Testimony for Demolition Tax for Affordable Housing Production

Dear Montgomery County Council members,

Hello, my name is Ebony Cox, and my journey has brought me back to Montgomery County after living in Las Vegas, Nevada, where I faced significant challenges. Thanks to Mr. Tino Fragale, for referring me to the Laureate. I found refuge and am now proud to call The Laureate in Derwood, Maryland, my home. Which has been funded by the Housing Production Fund (HPF). I am writing to express my enthusiastic support for Bill 5-25, the Demolition Tax for Affordable Housing Production.

This legislation is not just beneficial—it's essential for empowering participants in the Section 8 program to achieve the dream of homeownership and access premium properties like The Laureate, managed by Bozzuto. I eagerly anticipate the opportunities this bill will unlock for Section 8 participants and our broader community. Like many others, I dream of owning my own home, ideally one managed by Bozzuto. I am confident that this legislation will be instrumental in addressing Montgomery County's challenges with destabilized properties, ultimately leading to improved living conditions and a stronger community for all residents.

The Laureate is an extraordinary place to call home, The dedicated staff go above and beyond to support residents, and the maintenance team ensures our facilities are well kept and functional. As a pet-friendly community, The Laureate creates an inviting environment for leisurely strolls through beautifully landscaped grounds and sophisticated architecture. I personally treasure the clubhouse for movie nights—especially when it's not booked—where I can unwind by the fireplace and engage in various projects. The availability of private offices for virtual meetings allows residents to work efficiently, and let's not forget the allure of 15 complimentary cups of coffee, which add to the sense of community. Looking ahead at The Laureate, I am genuinely excited about the positive changes that Bill 5-25 could bring to our community. I believe we should invest more in this vital fund because together, we can advocate for a brighter future, ensuring that everyone has the opportunity to thrive. Let's take this step forward and create a lasting impact on our community!

Ebony Cox

[redacted]

[redacted]

February 21, 2025

Griffin Benton
Vice President, Government Affairs
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759

Dear Griffin:

I am writing to formally object to the newly proposed $20,000 fee for demolish an existing house and building a new one in Montgomery County, Maryland. As a resident and builder of this county, I find this fee to be excessively burdensome, especially considering that Montgomery County already has one of the highest property tax rates in the nation.

The imposition of this fee places an undue financial strain on homeowners who are seeking to improve their properties. It discourages development and modernization, which are essential for maintaining the vibrancy and economic health of our community. Additionally, this fee could potentially deter new residents from moving into the county, further impacting our local economy.

I urge the county to reconsider this fee and explore alternative solutions that would not place such a heavy financial burden on residents. It is crucial that we find a balance between generating necessary revenue for the county and ensuring that homeowners are not unfairly penalized for seeking to enhance their properties.

Thank you for your attention to this matter. I look forward to your response and hope that you will take my concerns into consideration.

Sincerely,

Elizabeth Wilder
President

Testimony of Hilary Swab, Resident
March 18, 2025
Public Hearing on Bill 5-25 Demolition Tax for Affordable Housing Production

I want to thank the County Council for holding a public hearing about Councilmember Mink and Council Vice President Jawando's legislation that would establish an excise tax on tear downs of old houses that are being replaced with larger houses.

I support this legislation and recommend that Councilmember Mink and Council Vice President Jawando amend the legislation so that half of the excise tax would go to support MCPS, as Councilmember Glass' 2019 bill would have done. Councilmember Glass introduce relatively similar legislation in 2019 and half of the fee would have gone to affordable housing development and the other would have gone to MCPS.

I am supportive of tearing down older houses and developing newer models that can be more energy efficient and better serve family's needs that want to move into the community. In fact, that is what my family did. We wanted to move closer to my parents; be able to walk to a shopping center; walk to the public library; and neighborhood parks.

You can see that the demand for new builds in the Wildwood and Ashburton community has not necessarily dropped off, as there are more and more new homes still being built. But with those new builds, comes with a very public cost. Many older homes being torn down have not had school aged children living in them for a long time and many paid no impact taxes, as they were built pre-1980. In 2019, the Maryland Building Industry President noted that impact taxes were created in the 1980s, but many of the homes being torn down were built prior to the 1980s, meaning that they have paid no impact tax what-so-ever. Additionally, as the Maryland Building Industry also correctly observed new impact taxes only apply to new homes on vacant lots, so these tear downs have essentially paid no impact tax.

But if you just walk the Ashburton and Walter Johnson service areas, you can see how the tear downs have not only continued to increase the populations of the schools in that cluster, but attribute to the outsized demand of those schools. A constant talking point I hear is that only *new development on new plots* such as Amalyn that are driving school enrollment. However, Ashburton's ES population pushed 900 prior to the development of Amalyn and now we are back in the same position. But prior to the building of Amalyn, entire blocks of streets in the Wildwood community were being torn-down and rebuilt. Thus, it is clearly not just new development of new home driving the population of the school, but the attractiveness of newer homes replacing older ones that ultimately paid no impact taxes. This is why it is critical that the County Council not only pass this legislation but amend it so that the fee is shared with MCPS.

The County Council can end their addiction to giving money away to developers and begin to make common sense changes to impact fees that will not only provide MCPS more financial stability, but stop promoting the false narrative that you have to choose between funding MCPS and spurring development through tax give aways. If any of you have doubts about the impact of tear downs in neighborhoods, I invite you all to walk the neighborhood with me so you can see just how much money the County has lost by delaying the passage of Councilmember Glass's legislation in 2019 and will continue to lose by not passing common sense impact tax reform.

Date: March 17, 2025

Testimony to the Montgomery County Council

Re: Bill 5-25, Demolition Tax for Affordable Housing Production

Dear Council Members:

The League of Women Voters of Montgomery County takes this opportunity to express its **strong support of Bill 5-25, Demolition Tax for Affordable Housing Production**. LWVMC advocates for comprehensive efforts to maintain and increase the supply of affordable housing through a variety of means including tax policies and zoning text amendments. This legislation would do just that by creating a new and necessary revenue source for the development of additional affordable housing units.

Revenues from the new excise tax would be dedicated to the Montgomery Housing Initiative and used exclusively for the Housing Production Fund. The funds finance construction of mixed-income, mixed-use new developments in Montgomery County such that at least 30% of units would be income-restricted so that 20% of units would be affordable at or below 50% area median income (AMI) and 10% would be at or below moderately priced dwelling unit income limits (65% – 70% AMI).[1]

In a 2024 countywide survey a majority—65% of residents—responded that affordable housing in the county has gotten worse in the last two years and only 18% of residents felt the availability of quality, affordable housing was excellent or good. This disapproval rating has grown steadily over the last three surveys, and although the Montgomery County Community Needs Assessment for 2022-2025 recommends that housing cost no more than 30% of a family's income, in 2019 about 27% of homeowners and 51% of renters paid more than that. With rising inflation and insufficient affordable housing, families are overwhelmed!

The median cost of a home in Montgomery County has risen 16% from January 2024 to January 2025. The median price of a single-family home is nearly $600K and the average price is over $1 million! A report from Montgomery Planning last year revealed that the county's per capita personal income has barely kept pace with inflation from 2004 to 2021. Without serious legislative action, a family of four with a moderate income will no longer be able to afford to live in Montgomery County.

Rising housing costs, stagnant wages, high mortgage rates and limited construction of affordable housing has led to the creation of a two-tiered system: the haves and have nots. The latter are left to bear the burden of limited affordable housing. Creative measures such as Bill 5-25 can help alleviate that burden and improve the quality of life for all.

Thank you for your consideration.

Ralph Watkins and Joan Siegel
Co-presidents

[1] https://www.hocmc.org/about-us/innovations/housing-production-fund/

Montgomery County Council

Bill 5-25 Demolition Excise Tax

This bill does not make any sense. It is getting harder and harder to have a small business in this country, this will make it even harder to work in this county. With all the new 2021 code requirements and cost related to that. With the DPS taking longer and longer to get permits out and now you want to add $20,000.00 to the cost for my customers to have to pay to build their new more energy efficient homes does not make any sense. The County Council should be working on legislation to make it easier for companies and small business to want live and work in Montgomery County not legislation to make it harder. The County Council should be working on making it a little more affordable to work and live in Montgomery County.

Vote no on this bad proposed Bill.

Sincerely

Leo Schartz

Testimony in Favor of Bill 5-25
Demolition Tax for Affordable Housing Production
Mara Greengrass

My name is Mara Greengrass and I'm a resident of Council District 6. I write to urge you to vote for the Demolition Tax for Affordable Housing Production. This tax would lead to several good outcomes, very necessary in the current economy.

Single family homes are most often replaced by much more expensive housing (I've seen estimates up to twice as much!). An excise tax on demolition of these homes would have two possible responses: Either it would discourage the demolition of the less expensive housing or it would provide funds for the Housing Initiative Fund, which would enable the county to build affordable housing.

Raising the $4 million staff have estimated based on previous years' demolition permits for affordable housing sounds like a good idea, especially given the expected increase in unemployment in the county.

Bill 5-25 has reasonable exemptions to this tax, such as properties that have been condemned, medical necessity of the owner/occupier of the home, or owners who plan to build a home that's approximately the same size, so the burden would not be placed unintentionally on average homeowners.

Please support this excise tax so we can continue to build new affordable housing in the county.

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

March 18, 2025

Hon. Kate Stewart
President, Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Subject: Letter of Opposition - Bill 5-25 – Demolition Tax for Affordable Housing Production

Dear President Stewart,

The Maryland Building Industry Association representing 1,000 plus member companies statewide with a significant portion operating in Montgomery County is heavily opposed to Bill 5-25. The proposal would establish an excise tax that would apply to certain total demolitions and partial demolitions of attached or detached single-family homes. A "partial demolition" would be defined as a construction or renovation that will result in the destruction or removal of at least 50% of an existing single-family home. The tax rate would be $20,000 per demolition or partial demolition.

This is a massive tax on housing of all types, not just expensive replacement homes but all housing. This comes at a time when the county and the state are in midst of a housing crisis and a looming recession. We are experiencing a dramatic shortage of housing, all types and price points. The governor has come out clearly and stated that there should be no actions or legislation taken that exacerbate the housing shortage and the proposed demolition tax runs completely contrary to our community's need for new housing that meets the needs of residents. Montgomery County has gotten more expensive to live and do business on an annual basis. Not even two years ago the county increased its property tax rates transfer and recordation tax rate, as well as impact fees. The County Executives proposed FY26 budget proposes another property tax increase.

For context, a demolition permit right now per the FY25 fee schedule is $156.82, under Bill 5-25 it would cost the applicant $20,000. Montgomery County currently issues on average 207 demolition permits per year, this number is down from around 420 annually in 2019. Montgomery County is not a Greenfield county, a majority of the projects that occur in the county are re development and revitalization projects. Older homes or buildings that are renovated or torn down for new housing types the benefit the county immensely financially, these projects provide jobs and replace mature greenhouse emitting buildings with new energy efficient ones. On average a home valued at $800,000 contributes $9,216 to the county through tax revenue, that home replaced with a $1.8 million home contributes $76,674 to the county through property and transfer and recordation tax revenue after 1 year, a 732 percent increase.

Maybe the most important point through all of this, is that bill claims to add an additional $4 million for affordable housing should that 207 average not change at all. Increasing the price of demo permit from $156.82 to $20,000 and expecting activity to stay the same a complete fallacy. Infill and replacement home activity will plummet, which would have a devastating impact on the county's economy. This is not a sustainable solution to increase funding or affordable housing or any county initiatives. Homebuilding continues to increase in cost, it is now about 40 percent more costly to build a home since the onset of the pandemic due to supply chain disruption and rampant inflation, this dramatic increase in construction costs has impacted not only material, but labor as well. This proposed fee increase places an undue financial strain on homeowners who are seeking to improve their properties. It discourages development and modernization, which are essential for maintaining the vibrancy and economic health of Montgomery County.

This legislation will deter new residents from moving into the county, further impacting our local economy, as well as impact the county retaining residents should they want to improve their homes. A demolition and rebuild is, by definition, an investment in the housing stock of our community. It is a very tangible sign of that property owner's confidence in our community. The very notion that the council would consider yet another tax that could diminish the viability of a demolition and rebuild project which represents an investment in our community is beyond understanding.

MBIA urges the county to reconsider this legislation. It is crucial that we find a balance between generating necessary revenue for the county and ensuring that homeowners are not unfairly penalized for seeking to enhance their properties.

For these reasons please vote NO on this enormous tax on housing! If you have any questions or concerns, please do not hesitate to contact at gbenton@marylandbuilders.org or (202)-815-4239.

Respectfully,

Griffin Benton
Vice President, MBIA

Montgomery County Community Action Board Testimony
County Council Bill 5-25: Demolition Tax for Affordable Housing Production
March 18, 2025
SUPPORT

The Montgomery County Community Action Board, the County's local, state, and federally designated anti-poverty group, is in support of County Council Bill 5 – 25, which would require an owner to pay an excise tax prior to receiving a permit to demolish their home.

As advocates for economically disadvantaged and marginalized communities, our board understands that there is an affordable housing crisis in the County. About half of all renters in the County are now cost-burdened, with nearly all households earning 50% of AMI or less cost-burdened.[1] We hear from participants in our board's advocacy training program for economically disadvantaged residents, the Community Advocacy Institute, about their challenges finding affordable housing. Many report that they have few options or are barely able to cover their rent, with the threat of eviction always looming. We hear the same thing from the Community Action Agency's staff at the Takoma-East Silver Spring (TESS) Community Action Center and Navigation Program. Staff working directly with residents often find it nearly impossible to find housing options for families with modest incomes, leading to a great deal of housing instability. We need more creative solutions to address this issue, including new opportunities to raise revenue for affordable housing construction through taxes like the one proposed in this bill.

It is important to note that the lack of affordable housing is particularly concerning in an area like Montgomery County where the cost of living is so high. According to the 2023 Montgomery County Self-Sufficiency Standard, a household with two working adults, one preschooler, and one school-age child would need to earn $122,943 annually to cover their basic necessities, <u>over four times the federal poverty level</u>.[2] Housing represents a significant expense for families. Policies that aim to provide more affordable housing options, like Council Bill 5-25, can help families move towards the Self-Sufficiency Standard.

In addition to this bill, our board asks the Council to continue to explore other opportunities to expand affordable housing. We need more affordable housing throughout the County, so that residents with modest incomes have more options and to end segregation by socio-economic status.

The Community Action Board strongly supports County Council Bill 5 – 25 and asks the Council to vote in favor of this bill.

[1] https://montgomeryplanning.org/wp-content/uploads/2017/07/RHS_Strategy-Document.pdf
[2] https://www.montgomerycountymd.gov/HHS-Program/Resources/Files/MDMontCo2023_SSS.pdf

Bill 5-25 Demolition Tax for Affordable Housing

To The Honorable County Council

Greetings

My name is Robert Stubblefield and I am a lifelong resident of Montgomery County. I am also a lay minister, an activist-organizer with a variety of groups such as the Bethesda African Cemetery Coalition, Young People for Progress, Montgomery County Chapter of DSA and more but I am responding in my individual capacity to write in favor of Bill 5-25, Demolition Tax For Affordable Housing Production. My reasons are detailed below.

The first reason why I am writing in support is that county is in a housing crisis. Currently, people of Montgomery County are trying to either become homeowners instead of renters, rent an affordable apartment unit and yet the production is not keeping up with demand. In addition, the county is feeling the affects of the state budget and the crisis going on at the federal level. Due to all of these situations, it is vital that the county able to fund affordable housing initiatives. The way the bill is set up, it is an excise tax similar to what other jurisdictions have in which demolitions both total and partial will be $20,000 with the rate increased based on CPI. In addition, the bill exempts from the tax homes that are deemed unsafe, covenants for a period of five years, replacement single home is necessary for medical/disability reasons. This is a good thing. In addition, the revenues raised from this tax will be dedicated to the Housing Production Fund which

The second reason why I'm supporting this bill is because of the racial equity. Racial equity in housing is vital because not only is homeownership and paying affordable prices for rental units a way for Black and Hispanic communities to build up wealth, The Office of Legislative Oversight, which has been vital in their analysis of Racial equity impacts, stated that potential positive impacts that this bill has provided that residents of the revitalized neighborhoods benefit of employment opportunities and keep cultural institutions viable, having tenant protections and rental regulations etc. In other words, having a comprehensive plan in addition to this tax will have a positive impact. It is vital that with this legislation that we keep our racial equity focus.

In closing, I support this bill. This bill is part of building a county that is truly progressive in words and in deeds. It is part of building a mosaic that we can all be proud of to call home, to have communities that people can build and thrive. Thank you

Robert Stubblefield

Vaughn Stewart
Legislative District 19
Montgomery County

Chief Deputy Majority Whip

Environment and Transportation Committee

Subcommittees

Housing & Real Property

Chair, Motor Vehicle and Transportation

THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

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Vaughn.Stewart@house.state.md.us

Testimony in Support of Bill 5 - 25
Demolition Tax for Affordable Housing Production
Testimony by Delegate Vaughn Stewart
March 18, 2025 | Montgomery County Council

Chair and members of the Montgomery County Council,

I am honored to testify in support of Bill 5-25. I want to extend my gratitude to Councilmembers Kristin Mink and Will Jawando for their leadership in putting forth this critical legislation that will reaffirm the county's commitment to housing affordability.

Montgomery County is facing a housing crisis, with rising home prices and increasing displacement of low- and moderate-income residents. The Housing Production Fund has already demonstrated its ability to catalyze new, affordable supply. A nationwide model, the Fund has generated thousands of new housing units, leveraging public investment to secure additional capital. By introducing a modest excise tax on demolitions—particularly in high-cost areas where redevelopment often leads to the construction of larger, less affordable homes—this bill ensures that new development contributes to affordable housing.

I am a strong supporter of the Housing Production Fund and believe it is one of our county's most valuable tools in solving the affordable housing crisis. I am proud to have sponsored legislation to support the HPF in Annapolis and continue to advocate for increased funding for the program at the state level.

Bill 5-25 represents a strategic investment in the County's future.

I urge the Council to pass Bill 5-25.

Council Bill 5-25, Demolition Tax for Affordable Housing Production

Amendment by Council President Stewart

Amend lines 31-48 as follows.

(b) The tax under this Article must not apply to the demolition or partial demolition of a single-family home:

(1) deemed unsafe or condemned under Sections 8-10 or 26-13;

(2) if the owner covenants that the replacement single-family home will be a moderately priced dwelling unit under Chapter 25A;

(3) if the owner covenants to own and occupy the replacement single-family home as their principal residence for a minimum of 5 years;

(4) if the owner covenants that the gross floor area of the replacement single-family home will be equal to or less than the gross floor area of the demolished or partially demolished home;

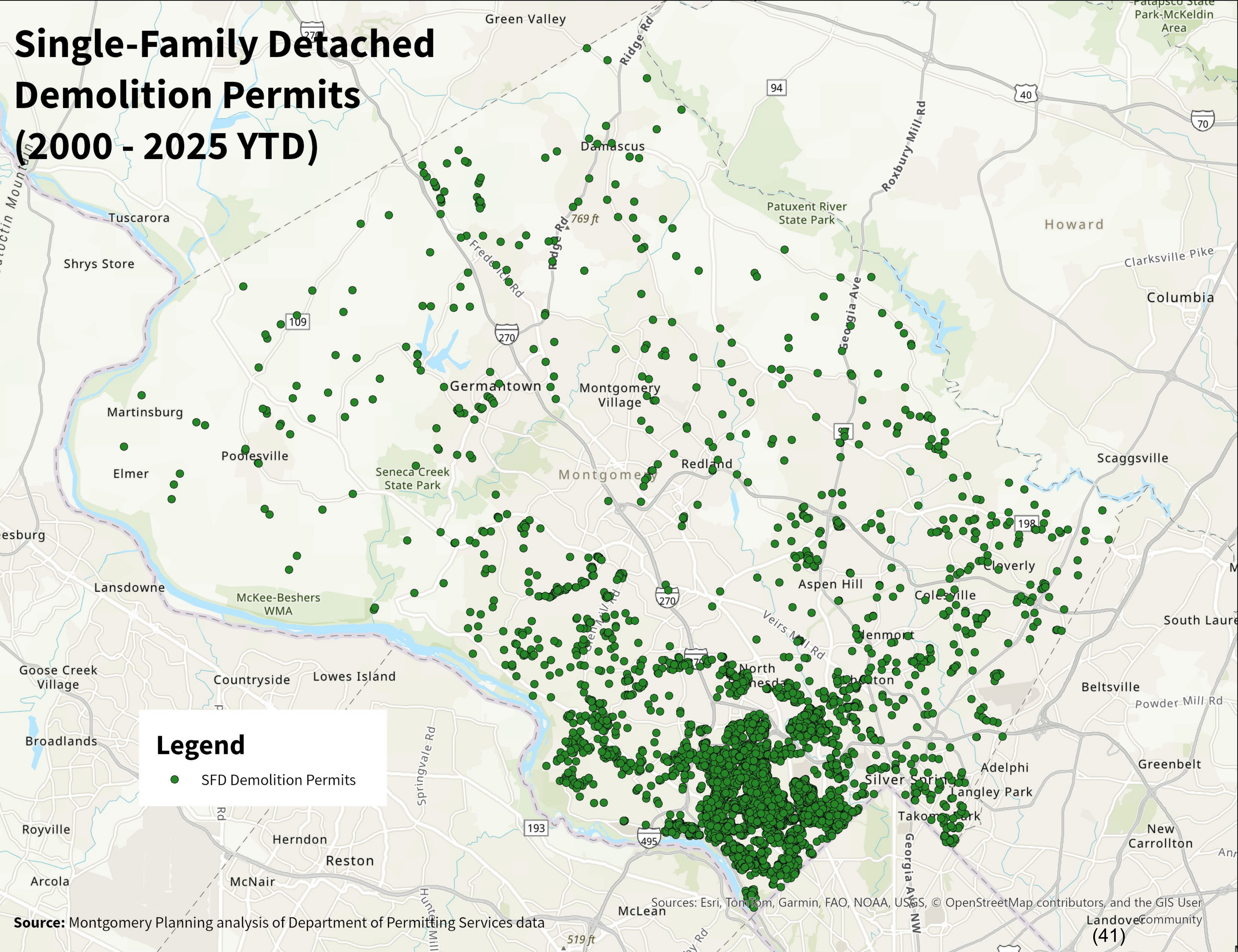
(5) if the owner demonstrates that the replacement single-family home is necessary due to a medical condition or disability of an individual who will reside in the replacement single-family home; **[[or]]**

(6) if the owner demonstrates that the demolition or partial demolition is necessary due to a Force Majeure or other factors beyond the owner's control and reasonable ability to remedy;

(7) if the demolished or partially demolished single-family home is replaced by a multifamily dwelling, including a duplex or triplex; or

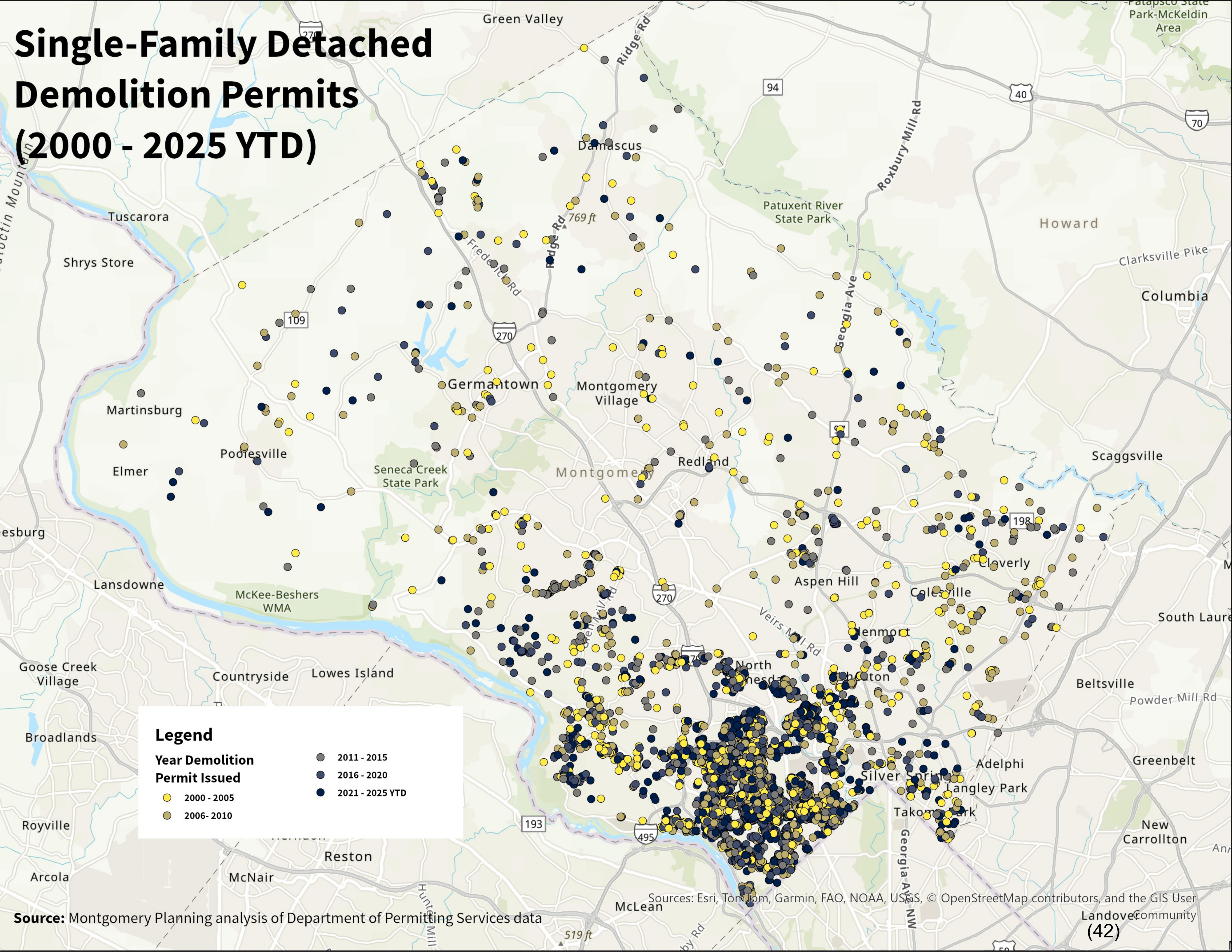
(8) if the owner is a nonprofit organization that covenants to offer the replacement single-family home for lease or sale under a program to benefit households of limited income or limited net worth.

Single-Family Detached Demolition Permits (2000 - 2025 YTD)



Source: Montgomery Planning analysis of Department of Permitting Services data

Single-Family Detached Demolition Permits (2000 - 2025 YTD)



Source: Montgomery Planning analysis of Department of Permitting Services data

CITY OF HIGHLAND PARK
AFFORDABLE HOUSING DEMOLITION TAX

1. What is the Affordable Housing Demolition Tax?
The Demolition Tax is a tax imposed on all residential demolitions in Highland Park. The tax is $10,000 for single family homes. For multi-unit buildings, the tax is either $10,000 or $3,000 per unit, whichever is greater.

2. What is the purpose of the Demolition Tax?
The purpose of the demolition tax is to help fund the City's Affordable Housing Trust Fund (HTF). The City established the HTF to provide financial resources to preserve and create more affordably priced housing in Highland Park. Most of the revenue raised from the Demolition Tax is deposited in the HTF.

Establishing the HTF was a key recommendation of the City's Affordable Housing Plan, adopted by the City Council in January 2001 as an element of the City's Comprehensive Master Plan. The Affordable Housing Plan was prepared in response to resident concerns that rising land and housing costs and a loss of affordable units in the wake of redevelopment are threatening the diversity of Highland Park's population, changing neighborhood character, and severely limiting housing options for a broad range of individuals and families living or working in the community.

Early in 2006, the City Council amended the ordinance establishing the Demolition Tax to reallocate a portion of the proceeds to the City Street and Bridge Fund to help defray the increased costs of maintenance of roadways and streets caused by construction activity in areas of residential demolition.

3. What is the rationale for a tax on demolitions?
Over the years, the demolition of existing dwellings in Highland Park has led to a reduction in the diversity of the City's housing stock and a decrease in the availability of affordable housing options within the City. Subsequent redevelopment has in many cases contributed to increases in housing prices that make it more difficult to provide affordable housing. Accordingly, the City Council determined that a tax on tear-downs would provide an appropriate source of revenue to help fund new initiatives to address the community's affordable housing needs.

4. When is the demolition tax paid?
Payment of the demolition tax is required prior to receipt of a demolition permit.

5. How is demolition defined?

The City Code defines demolitions as any act or process within the owner's control that results in the removal or destruction of 50 percent or more of the structure or building. The 50 percent is determined by removal of a combination of interior and exterior elements.

6. Are there any exceptions to the demolition tax?

The demolition tax does not apply under the following circumstances:

- If the applicant for the permit has entered into an agreement with the Housing Commission for the provision of affordable housing.
- If the applicant establishes, subject to appropriate evidence, that the replacement housing is affordable under the City's definition of affordable housing.
- If the applicant has owned and occupied the dwelling being demolished for at least 5 years preceding the demolition and covenants to own and occupy the replacement home for a minimum of 5 years.
- If the applicant establishes, subject to appropriate documentation, that the demolition of the dwelling is necessary due to the medical condition of the owner, that the owner qualifies as a low- or moderate-income household, and that the owner will occupy the replacement dwelling.
- If the applicant establishes, subject to appropriate evidence, that the demolition is necessary due to a Force Majeure – i.e., an act of God, or other factors beyond the owner's control and reasonable ability to remedy.

7. Who administers the demolition tax?

The Building Division administers the demolition tax. If an applicant believes that the tax does not apply based on one of the exceptions listed above, the applicant must submit appropriate documentation. The documentation is reviewed by the staff liaison to the Housing Commission, who determines whether the exception applies.

For more information about Affordable Housing Trust Fund and the City's other affordable housing initiatives, contact the Community Development Department at 847-432-0867.

4-18-3. TAX IMPOSED.

(A) *Amount of Tax.* Any person granted a permit under this code for demolition of a residential structure shall pay an affordable housing demolition tax of: 1) twenty thousand dollars ($20,000.00) for the demolition of any single-family detached residential structure, or 2) for the demolition of any multi-family, single-family attached, or two-family residential structure, either twenty thousand dollars ($20,000.00) plus four thousand dollars ($4,000.00) for each additional unit above the first unit for two (2) to five (5) unit buildings or seven thousand five hundred dollars ($7,500.00) for each unit in the structure for buildings above five (5) units. The demolition tax will be adjusted annually on January 1st based on the Consumer Price Index. The tax imposed pursuant to this Subsection shall be in addition to the demolition permit fee established from time to time by the City Council and all other applicable fees and charges. Payment of the tax, unless deferred as provided in Section 4-18-4 of this Chapter, shall be due upon issuance of a demolition permit by the department, and is a condition to the validity of the permit. The City shall have a lien against the property which was the subject of the demolition permit until applicable tax obligations imposed by this Chapter are satisfied. The funds received by the City for the amount imposed pursuant to this Subsection shall be dedicated to achievement of the affordable housing goals and objectives as set forth in Section 4-18-1 of this Chapter. The demolition tax funds received pursuant to the tax imposed by this Chapter shall be deposited directly into the affordable housing fund.

(B) *Specific Applicability Rules.* Notwithstanding the general requirement set forth in Subsection (A) of this Section, the tax shall not apply under the following circumstances. This Subsection, however, shall not affect an applicant's obligation to pay the demolition permit fee.

1. If the applicant and the City enter into an agreement for the provision of "affordable housing" as defined in Section 4-18-2 of this Chapter in conjunction with the demolition that would otherwise be the subject of Subsection (A) of this Section. Any such agreement shall require prior City Council approval and shall specifically set forth the applicability of this Subsection.
2. If the Director determines, pursuant to regulations enacted by the City Council, that the building or structure replacing the building or structure that is the subject of the demolition permit constitutes "affordable housing" as defined in Section 4-18-2 of this Chapter.
3. If the Director or any other City department head, or their respective designees, orders a demolition for any reason, including, but not limited to, nuisance, public safety, or fire hazard, this tax shall not apply, regardless of whether the demolition work is performed by a public or private entity.

(C) *General Applicability.* Imposition of the tax provided for by Subsection (A) of this Section shall not apply to any demolition for which a perfected application for the demolition permit was on file with the City on or before the effective date hereof.

(Ord. No. 139-O-05; Ord. No. 40-O-07; Ord. No. 8-O-12, (48-O-11(exh. A, § 4-18-3)), 1-23-2012; Ord. No. 38-O-19, § 1, 5-19-2019; Ord. No. 49-O-23, § 1, 6-26-2023)