



**Committee:** GO  
**Committee Review:** At a future date  
**Staff:** Christine M.H. Wellons, Legislative Attorney  
**Purpose:** To receive testimony – no vote expected  
**Keywords:** #HousingImpactFairness

AGENDA ITEM #10  
December 3, 2019  
**Public Hearing**

## SUBJECT

Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act  
Lead Sponsor: Councilmember Glass; Co-Sponsor: Councilmember Jawando

## EXPECTED ATTENDEES

Public Speakers

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Receive public testimony.

## DESCRIPTION/ISSUE

Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act would:

- alter the applicability of the development impact tax for public school improvements;
- establish an excise tax on certain demolitions and renovations of single-family homes; and
- specify the use of certain tax revenues for affordable housing initiatives.

## SUMMARY OF KEY DISCUSSION POINTS

- N/A

### This report contains:

Staff Report

Bill 34-19

Legislative Request Report

Pages 1-2

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**MEMORANDUM**

November 27, 2019

TO: County Council

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

SUBJECT: Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act <sup>1</sup>

PURPOSE: Public Hearing – no Council votes required

Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act, sponsored by Lead Sponsor Councilmember Glass and Co-Sponsor Councilmember Jawando, was introduced on October 15, 2019. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for January 16, 2020 at 2:00 p.m.

Bill 34-19 would:

- alter the applicability of the development impact tax for public school improvements;
- establish an excise tax on certain demolitions and renovations of single-family homes; and
- specify the use of certain tax revenues for affordable housing initiatives.

**BACKGROUND AND PURPOSE**

The purpose of Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act is to raise revenue for: (1) affordable housing initiatives; and (2) public school improvements. As described more specifically below, the bill would achieve this purpose by: (1) creating an excise tax on the demolition or partial demolition (i.e., “teardown”) of single-family homes; and (2) expanding the applicability of the development impact tax for public school improvements.

Currently, teardowns of older existing single-family homes – which often result in the creation of substantially larger and less affordable homes – are not subject to impact taxes in the County. Comparable newer developments, however, are subject to transportation and school impact taxes under existing law. Under the bill, teardowns of certain older single-family homes would be made subject to the impact tax for school improvements. Furthermore, teardowns resulting in larger single-family homes would be subject to a separate excise tax, the revenues of which would be dedicated solely to affordable housing initiatives in the County (as opposed to transportation projects or other County programs). The transportation impact tax, as well as the formula for the school impact tax, would remain unchanged.

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<sup>1</sup> #HousingImpactFairness

## SPECIFIC PROVISIONS OF BILL 34-19

A new Affordable Housing Teardown Excise Tax would apply to certain total demolitions and partial demolitions of attached or detached single-family homes when the replacement home has a greater square footage than the original home. The tax rate would be \$9, or a higher rate adopted by resolution of the County Council, for each square foot that the floor area of the replacement home exceeds the floor area of the original home.

The Department of Permitting Services (DPS) would calculate the amount of the tax. The tax would be collected as a precondition to a demolition permit in the case of a total demolition, or as a precondition to a building permit in the case of a partial demolition. A “partial demolition” would include the destruction of 50% or more of the original home.

Revenues from the new excise tax would be dedicated to the Montgomery Housing Initiative for affordable housing.

The bill also would expand the applicability of the development impact tax for public school improvements. Currently, the impact tax does not apply to:

- (1) “any reconstruction or alteration of an existing building or part of a building that does not increase the number of dwelling units of the building...” or
- (2) “any building that replaces an existing building on the same site or in the same project (as approved by the Planning Board or the equivalent body in Rockville or Gaithersburg) to the extent of the number of dwelling units of the previous building, if:
  - (A) construction begins within one year after demolition or destruction of the previous building was substantially completed; or
  - (B) the previous building is demolished or destroyed, after the replacement building is built, by a date specified in a phasing plan approved by the Planning Board or equivalent body....”

(County Code Section 52-54).

The bill would alter these two exceptions under Section 52-54 so that the public school impact tax *would apply* to a new, reconstructed, or altered attached or detached single-family home that replaces a home built before the effective date of the school impact tax law, which was March 1, 2004. Homes built before March 1, 2004 have never been subject to the impact tax for public school improvements under Section 52-54. Under the bill, the effect of these older single-family homes on public schools would be captured at the time the home is reconstructed or replaced.

This packet contains:

Bill 34-19

Legislative Request Report

Circle #

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Bill No. 34-19  
Concerning: Taxation – Development  
Impact Taxes – Affordable Housing –  
Housing Impact Fairness Act  
Revised: 10/07/2019 Draft No. 10  
Introduced: October 15, 2019  
Expires: April 15, 2021  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Glass  
Co-Sponsor: Councilmember Jawando

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**AN ACT** to:

- (1) alter the applicability of the development impact tax for public school improvements;
- (2) establish an excise tax on certain demolitions and renovations of single-family homes;
- (3) specify the use of certain tax revenues for affordable housing initiatives; and
- (4) generally amend the law concerning taxation.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-54

By adding

Article XI, Affordable Housing Teardown Excise Tax  
Sections 52-112, 52-113, 52-114, and 52-115

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

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



27 reconstructed, or altered building is greater than the tax that  
28 would have been due on the previous building if it were taxed at  
29 the same time, the applicant must pay the difference between  
30 those amounts.

31 (4) Replacement of an Older Single-family Home. Unless an  
32 exemption under subsection (c) applies, the development impact  
33 tax under this Section must apply to a new, reconstructed, or  
34 altered attached or detached single-family home that replaces a  
35 home built before March 1, 2004.

36 \* \* \*

37 **Article XI. Affordable Housing Teardown Excise Tax**

38 **52-112. Definitions.**

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

40 Applicant means a property owner, or duly designated agent of the  
41 property owner, of land on which:

42 (1) a demolition permit has been requested to demolish a single-  
43 family home; or

44 (2) a building permit has been requested in connection with a partial  
45 demolition of a single-family home.

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

48 Department means the Department of Permitting Services.

49 Partial demolition means the teardown, destruction, or removal of at  
50 least 50% of a single-family home.

51 Replacement single-family home means a single-family home that  
52 replaces a demolished or partially demolished single-family home.

53 Single-family home means a single-family detached or attached  
 54 residential building.

55 **52-113. Imposition and applicability of excise tax.**

56 (a) Except as provided in subsection (b), an applicant must pay a  
 57 demolition tax in the manner and amount prescribed by this Article.

58 (b) An applicant must not pay a tax under this Article to demolish or  
 59 partially demolish a building or structure deemed unsafe under Sections  
 60 8-10 or 26-13.

61 **52-114. Tax amount.**

62 (a) Unless a higher tax rate is established under subsection (b), the tax rate  
 63 under this Article must be \$9 for each square foot of gross floor area of  
 64 the replacement single-family home that exceeds the gross floor area of  
 65 the demolished or partially demolished single-family home.

66 (b) The Council may establish a rate for the tax that is higher than the rate  
 67 under subsection (a) by resolution after a public hearing under Section  
 68 52-17.

69 **52-115. Determination of amount; use of funds.**

70 (a) The Department must not issue a demolition permit or a building permit  
 71 to an applicant unless:

- 72 (1) the applicant has paid the tax due under this Article; or
- 73 (2) the applicant is exempt from the tax under Section 52-113.

74 (b) The Department must calculate the amount of the demolition tax under  
 75 Section 52-114.

76 (c) The applicant must submit to the Department any information,  
 77 certification, and documentation required by the Department to  
 78 calculate the amount of the tax.

79           (d) Tax revenues under this Section must be used solely to fund the  
80                   Montgomery Housing Initiative under Section 25B-9.

81           **Sec. 2. Transition.** The amendments to the impact tax for public school  
82 improvements, and the affordable housing excise tax, under Section 1 of this Act  
83 must apply to an application for a building or demolition permit filed on or after the  
84 effective date of the Act.



## LEGISLATIVE REQUEST REPORT

Bill 34-19

*Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act*

**DESCRIPTION:** Bill 34-19, Taxation – Development Impact Taxes – Affordable Housing – Housing Impact Fairness Act would:

- alter the applicability of the development impact tax for public school improvements;
- establish an excise tax on certain demolitions and renovations of single-family homes; and
- specify the use of certain tax revenues for affordable housing initiatives.

**PROBLEM:** More affordable housing is needed in the County. School improvements are needed in the County.

**GOALS AND OBJECTIVES:** Raise revenue for affordable housing initiatives and for public school improvements.

**COORDINATION:** Finance; Department of Permitting Services

**FISCAL IMPACT:** OMB

**ECONOMIC IMPACT:** Finance

**EVALUATION:** To be done.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Christine M.H. Wellons, Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** N/A