



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

AGENDA ITEM #4B
October 15, 2019
Introduction

SUBJECT

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

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Bill introduction

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

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MEMORANDUM

October 10, 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

PURPOSE: Introduction – 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, is scheduled to be introduced on October 15, 2019. A public hearing is tentatively scheduled for December 3, 2019 at 7:30 p.m.¹

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.

¹ #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

Lead Sponsor: Councilmember Glass
Co-Sponsor: Councilmember Jawando

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

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

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

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