



Committee: GO
Committee Review: At a future date
Staff: Livhu Ndou, Senior Legislative Attorney
Purpose: To receive testimony – no vote expected

AGENDA ITEM #5
October 1, 2024
Public Hearing

SUBJECTS

Bill 16-24, Development Impact Tax – Amendments

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

EXPECTED ATTENDEES

Members of the public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

To receive testimony

DESCRIPTION/ISSUE

Bill 16-24 would:

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

SUMMARY OF KEY DISCUSSION POINTS

- The Planning Board is required to approve and send to the Council a recommended Growth and Infrastructure Policy (GIP) by August 1. The Planning Board submitted their recommended draft 2024-2028 GIP on July 25, 2024.
- The Planning Board transmitted the proposed bill to implement legislative changes consistent with the Planning Board draft of the 2024-2024 GIP.
- Bill 16-24 would update transportation impact tax districts and modify the applicability of development impact tax exemptions for certain uses and in certain locations.
- A Government Operations (GO) Committee worksession is tentatively scheduled for October 10, 2024.

This report contains:

Staff Report
Bill 16-24

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*The Fiscal Impact Statement was not available at publication of this staff report.

*The Economic Impact Statement, Climate Assessment, and Racial Equity & Social Justice Impact Statements were not available at the time of publication of this staff report. They can be found at the

below address: [Racial Equity and Social Justice, Economic, and Climate Impact Statements - Office of Legislative Oversight- Montgomery County, Maryland \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/Racial-Equity-and-Social-Justice-Economic-and-Climate-Impact-Statements-Office-of-Legislative-Oversight)

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MEMORANDUM

September 26, 2024

TO: County Council

FROM: Livhu Ndou, Senior Legislative Attorney

SUBJECT: Bill 16-24, Development Impact Tax – Amendments

PURPOSE: Public Hearing

Bill 16-24, Development Impact Tax - Amendments, sponsored by the Council President on behalf of the Planning Board, was introduced on September 10, 2024. A Government Operations (GO) Committee worksession is tentatively scheduled for October 10, 2024.

Bill 16-24 would:

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

Section 33A-15(b)(2) of the County Code requires the Planning Board to approve and send to the Council a recommended Growth and Infrastructure Policy (GIP) by August 1. The Planning Board submitted their recommended draft 2024-2028 GIP on July 25, 2024. The Planning Board recommends legislative changes concurrent with its recommended changes to the Growth and Infrastructure Policy. Bill 16-24 would update transportation impact tax districts and modify the applicability of development impact tax exemptions for certain uses and in certain locations.

This packet contains:
Bill 16-24

Circle #
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*The Fiscal Impact Statement was not available at publication of this staff report.

*The Economic Impact Statement, Climate Assessment, and Racial Equity & Social Justice Impact Statements were not available at the time of publication of this staff report. They can be found at the below address: [Racial Equity and Social Justice, Economic, and Climate Impact Statements - Office of Legislative Oversight- Montgomery County, Maryland \(montgomerycountymd.gov\)](https://www.montgomerycountymd.gov/legis/legis-over/legis-over-2024-2028-impact-statements)

Bill No. 16-24
Concerning: Development Impact Tax –
Amendments
Revised: 9/4/2024 Draft No. 1
Introduced: September 10, 2024
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

AN ACT to:

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

By amending

Montgomery County Code

Chapter 52, Taxation

Sections 52-39, 52-41, 52-47, 52-49, 52-52, 52-54, 52-55, and 52-59

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

*[**Single boldface brackets**] indicate text that is deleted from existing law by original text amendment.*

Double underlining indicates text that is added to the text amendment by amendment.

*[**Double boldface brackets**] indicate text that is deleted from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

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

Sec. 1. Sections 52-39, 52-41, 52-47, 52-49, 52-52, 52-54, 52-55, and 52-59 are amended as follows:

52-39. Definitions.

In this Article the following terms have the following meanings:

* * *

Operating Expense includes reasonable costs of staffing, advertisement, marketing, building rental, furniture, supplies and materials, bus fuel, and personnel to operate a trip reduction program.

Office-to-residential conversion is when an existing office building is turned into housing through adaptive reuse, renovation, or demolition.

* * *

(5) *High-rise residential* includes any dwelling unit located in a multifamily residential or mixed use building that is taller than 4 stories, and any 1-bedroom garden apartment.

Sidewalk Connector means a sidewalk that provides a direct link or connection to a major activity center.

Stacked flats are dwelling units constructed in a stack of two or more dwelling units, where each dwelling unit is located either above or below an adjacent unit.

Use and occupancy permit means a use and occupancy permit issued by the Department of Permitting Services under Chapter 8.

[*Sidewalk Connector* means a sidewalk that provides a direct link or connection to a major activity center]

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

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(c) The following impact tax districts are established:

- 27 (1) *White Flint*: The part of the [White Flint] North Bethesda Metro
 28 Station Policy Area included in the White Flint Special Taxing
 29 District in Section 68C-2;
- 30 (2) *Red Policy Areas*: Bethesda CBD, Chevy Chase Lake, Forest
 31 Glen, Friendship Heights, Great Seneca Life Science Center,
 32 Grosvenor, Glenmont,[,] Lyttonsville, Medical Center, North
 33 Bethesda Metro Station, Purple Line East, Rock Spring,
 34 Rockville Town Center, Shady Grove, Silver Spring CBD,
 35 Takoma, Twinbrook, Wheaton CBD, White Oak Downtown, and
 36 Woodside Metro Station Policy Areas;
- 37 (3) *Orange Policy Areas*: Aspen Hill, Bethesda/Chevy Chase,
 38 Burtonsville Crossroads, Clarksburg East, Clarksburg Town
 39 Center, Derwood, Fairland/Briggs Chaney, Gaithersburg City,
 40 Germantown East, Germantown Town Center, Germantown
 41 West, Great Seneca Communities, Kensington/Wheaton, North
 42 Bethesda, [R&D Village,] Olney Town Center, Rockville City,
 43 and Silver Spring/Takoma Park[, White Flint, except the portion
 44 that is included in the White Flint Special Taxing District in
 45 Section 68C-2, and White Oak] Policy Areas;
- 46 (4) *Yellow Policy Areas*: [Aspen Hill,] Clarksburg West, Cloverly,
 47 Damascus [Fairland/Colesville], Colesville [Germantown East,
 48 Germantown West], Montgomery Village/Airpark, North
 49 Potomac, Olney, and Potomac Policy Areas; and
- 50 (5) *Green Policy Areas*: [Damascus,] Rural East[,] and Rural West
 51 Policy Areas.

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- 53 (g) A development impact tax must not be imposed on:

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- (6) except for a development located in the City of Rockville, any development located in a Qualified Opportunity Zone certified by the United States Treasury Department, or in an area previously designated as an Opportunity Zone;
- (7) a house built by high school students under a program operated by the Montgomery County Board of Education; [or]
- (8) a farm tenant dwelling[.];
- (9) a bioscience facility;
- (10) a multifamily dwelling unit with 3 or more bedrooms in a multifamily structure; or
- (11) an office-to-residential conversion when the building is adaptively reused or renovated for multifamily housing.

* * *

52-47. Credits

* * *

- (1) The Department must not certify a credit for[:]
 - [(1)] the cost of a project in a Unified Mobility Program or the White Oak Local Area Transportation Improvement Program or the White Oak Local Area Transportation Improvement Program up to the property owner’s fee under a Unified Mobility Program or the White Oak Local Area Transportation Improvement Program.[; or]
 - [(2) any improvement in the right-of-way of a State road, except:]
 - [(A) a transit program that operates on or relieves traffic on a State road or an improvement to a State road that is

80 included in a memorandum of understanding between the
81 County and either Rockville or Gaithersburg; or]

82 [(B) the cost of an improvement in a Unified Mobility Program
83 or the White Oak Local Area Transportation Improvement
84 Program to the extent it exceeds the property owner’s fee
85 under a Unified Mobility Program or the White Oak Local
86 Area Transportation Improvement Program.]

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88 **52-49. Tax rates.**

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90 (h) Except for a development located in the City of Rockville, any
91 development located in a Desired Growth and Investment Area, as
92 defined in the 2020-2024 Growth and Infrastructure Policy
93 (Subdivision Staging Policy), that has an accepted preliminary plan
94 application, or equivalent plan acceptance in the City of Gaithersburg,
95 before January 1, 2025, must pay the tax at:

96 (1) 60[%] percent of the otherwise applicable rate if located in an
97 Orange Policy Area; or

98 (2) 68[%] percent of the otherwise applicable rate if located in a
99 Yellow Policy Area.

100 (i) Any single-family detached residential or detached single-family
101 dwelling units with a gross floor area of 1,800 square feet or less must
102 pay the tax at 50 percent of the otherwise applicable rate.

103 (j) Office-to-residential conversions when demolition is involved in the
104 conversion of office to multifamily or single-family attached housing
105 must pay the tax at 50 percent of the otherwise applicable rate.

106 (k) Stacked flats must pay the multifamily low-rise applicable rate.

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109 **52-52. Definitions.**

110 In this Article all terms defined in Section 52-39 have the same meanings, and the
111 following terms have the following meanings:

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* * *

113 *High-rise unit* means any dwelling unit located in a multifamily residential or
114 mixed-use building that is taller than 4 stories, [, and any 1-bedroom garden
115 apartment.]

116 Low-rise unit means any dwelling unit located in a multifamily residential or
117 mixed-use building that is 4 stories or less.

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119 **52-54. Imposition and applicability of tax.**

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* * *

121 (d) The tax under this Article must not be imposed on:

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123 (6) except for a development located in the City of Rockville, any
124 development located in a Qualified Opportunity Zone certified
125 by the United States Treasury Department, or in an area
126 previously designated as an Opportunity Zone; [or]

127 (7) a house built by high school students under a program operated
128 by the Montgomery County Board of Education;

129 (8) a multifamily dwelling unit with 3 or more bedrooms in a
130 multifamily structure; or

131 (9) an office-to-residential conversion when the building is
132 adaptively reused or renovated for multifamily housing;

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134 **52-55. Tax rates.**

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136 (d)[(d)] The Director of Finance, after advertising and holding a public
 137 hearing as required by Section 52-17(c), must adjust the tax rates set
 138 in or under this Section effective on July 1 of each odd-numbered year
 139 in accordance with the update to the Growth and Infrastructure Policy
 140 using the latest student generation rates and average Montgomery
 141 County Public School construction costs. The Director must calculate
 142 the adjustment to the nearest multiple of one dollar. The Director must
 143 publish in the County Register the amount of this adjustment not later
 144 than May 1 of each odd-numbered year.

145 * * *

146 (3) Calculation of impact tax rates. The tax rates must reflect the
 147 County's cost to construct a student seat, reducing the rates by a
 148 factor equivalent to the portion of funding for capacity-adding
 149 projects in the adopted school CIP attributed to State Aid.

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151 (f) [A three-bedroom multi-family dwelling unit located in an Infill Impact
 152 Area must pay the tax at 40% of the otherwise applicable rate.] Any
 153 single-family detached residential or detached single-family dwelling
 154 units with a gross floor area of 1,800 square feet or less must pay the
 155 tax at 50 percent of the otherwise applicable rate.

156 (g) An office-to-residential conversion when demolition is involved in the
 157 conversion of office to multifamily or single-family attached housing
 158 must pay the tax at 50 percent of the otherwise applicable rate.

159 (h) Stacked flats must pay the multifamily low-rise applicable rate.

160 * * *

161 **52-59. Utilization Premium Payment.**

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163 (c) The Director of Finance, after advertising and holding a public hearing,
164 must adjust the rates set in or under this Section effective on July 1 of
165 each odd-numbered year in accordance with the update to the
166 [Subdivision Staging] Growth and Infrastructure Policy using the latest
167 student generation rates and school construction cost data. The Director
168 must calculate the adjustment to the nearest multiple of one dollar. The
169 Director must publish the amount of this adjustment not later than May
170 1 of each odd-numbered year.

171 * * *

172 **Sec. 2. Transition.**

173 The amendments made in Section 1 take effect on January 1, 2025, and must apply
174 to any application for a building permit filed on or after January 1, 2025.