

Expedited Bill No. 16-24
Concerning: Development Impact Tax –
Amendments
Revised: 11/12/2024 Draft No. 4
Introduced: September 10, 2024
Expires: December 7, 2026
Enacted: November 12, 2024
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 EXPEDITED 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, 52-43, 52-47, 52-49, 52-52, 52-54, 52-55, and 52-59

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

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

1 **Sec. 1. Sections 52-39, 52-41, 52-43, 52-47, 52-49, 52-52, 52-54, 52-55, and**
2 **52-59 are amended as follows:**

3 **52-39. Definitions.**

4 In this Article the following terms have the following meanings:

5 * * *

6 Demolish means to tear down or destroy an entire building or structure, or 67 percent
7 or more of first-story exterior walls of a one-family or two-family dwelling unit.
8 Demolish includes the conversion of an exterior wall into an interior wall. Basement
9 and cellar walls are not considered exterior walls.

10 * * *

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

13 *Operating* ~~[[Expense]]~~ expense includes reasonable costs of staffing, advertisement,
14 marketing, building rental, furniture, supplies and materials, bus fuel, and personnel
15 to operate a trip reduction program.

16 ~~[[*Office-to-residential conversion is when an existing office building is turned into*~~
17 ~~*housing through adaptive reuse, renovation, or demolition.*]]~~

18 * * *

19 *Residential* means the use of a building as a dwelling unit.

20 * * *

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

24 *Sidewalk* ~~[[Connector]]~~ connector means a sidewalk that provides a direct link or
25 connection to a major activity center.

26 Stacked flats are dwelling units constructed in a stack of ~~[[two]]~~ 2 or more dwelling
27 units, where each dwelling unit is located either above or below an adjacent unit
28 within a single building that is 4 stories or less.

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

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

33 * * *

34 **52-41. Imposition and applicability of development impact taxes.**

35 * * *

36 (c) The following impact tax districts are established:

37 (1) *White Flint*: The part of the [White Flint] North Bethesda Metro
38 Station Policy Area included in the White Flint Special Taxing
39 District in Section 68C-2;

40 (2) *Red Policy Areas*: Bethesda CBD, Chevy Chase Lake, Forest
41 Glen, Friendship Heights, Great Seneca Life Science Center,
42 Grosvenor, Glenmont,[,] Lyttonsville, Medical Center, North
43 Bethesda Metro Station, Purple Line East, Rock Spring,
44 Rockville Town Center, Shady Grove, Silver Spring CBD,
45 Takoma, Twinbrook, Wheaton CBD, White Oak Downtown, and
46 Woodside Metro Station Policy Areas;

47 (3) *Orange Policy Areas*: Aspen Hill, Bethesda/Chevy Chase,
48 Burtonsville Crossroads, Clarksburg East, Clarksburg Town
49 Center, Derwood, Fairland/Briggs Chaney, Gaithersburg City,
50 Germantown East, Germantown Town Center, Germantown
51 West, Great Seneca Communities, Kensington/Wheaton, North
52 Bethesda, [R&D Village,] Olney Town Center, Rockville City,

53 and Silver Spring/Takoma Park[, White Flint, except the portion
54 that is included in the White Flint Special Taxing District in
55 Section 68C-2, and White Oak] Policy Areas;

56 (4) *Yellow Policy Areas*: [Aspen Hill,] Clarksburg West, Cloverly,
57 Damascus [Fairland/Colesville], Colesville [Germantown East,
58 Germantown West], Montgomery Village/Airpark, North
59 Potomac, Olney, and Potomac Policy Areas; and

60 (5) *Green Policy Areas*: [Damascus,] Rural East[,] and Rural West
61 Policy Areas.

62 * * *

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

64 * * *

65 (6) except for a development located in the City of Rockville, any
66 development located in a Qualified Opportunity Zone certified
67 by the United States Treasury Department[[,]] or in an area
68 previously designated as an Opportunity Zone, including a
69 development located in the following census tracts as defined by
70 their 2010 Census Boundaries: Silver Spring – 25.00, 26.01;
71 Takoma Park – 17.03, 20.00, 23.01; White Oak – 15.05, 15.09,
72 14.21; Wheaton – 38.00; Rockville – 9.04; Gaithersburg – 7.24,
73 7.23, 7.13, 8.13; and Germantown – 8.30;

74 (7) a house built by high school students under a program operated
75 by the Montgomery County Board of Education; [or]

76 (8) a farm tenant dwelling[.];

77 (9) a bioscience facility;

78 (10) a multifamily dwelling unit with 3 or more bedrooms in a
79 multifamily structure; [[or]]

80 [(11) an office-to-residential conversion when the building is
81 adaptively reused or renovated for multifamily housing.]

82 [(12)](11) any single-family attached or detached dwelling units with
83 a gross floor area of 1,800 square feet or less, or a gross floor
84 area of 2,200 square feet or less including an attached garage; or
85 [(.)]

86 (12) any development that is within one-half mile of a Metro station,
87 within a Parking Lot District, and that provides no onsite parking.

88 * * *

89 (h) The development impact tax does not apply to:

90 * * *

91 (4) office-to-residential conversions when the building is adaptively
92 reused or renovated for multi-family housing; and

93 (5) the conversion of office to multi-family, single-family detached,
94 or single-family attached housing when demolition is involved.

95 * * *

96 **52-43. Calculation of development impact tax.**

97 * * *

98 (f) A 1-bedroom garden apartment must be calculated using the high-rise
99 residential rate if the preliminary plan was approved before January 1,
100 2025.

101 * * *

102 **52-47. Credits**

103 * * *

104 (b) Except as provided in subsection (l), a property owner must receive a
105 credit for constructing or contributing to an improvement of the type
106 listed in Section 52-50, including the cost of an improvement in a

107 Unified Mobility Program or the White Oak Local Area Transportation
108 Improvement Program, if the improvement reduces traffic demand or
109 provides additional transportation capacity and to the extent the cost of
110 the improvement exceeds the property owner's fee under a Unified
111 Mobility Program or the White Oak Local Area Transportation
112 Improvement Program.

113 * * *

114 (4) Any credit that was certified under this subsection on or after
115 March 1, 2004, and before December 31, 2015, expires 6 years
116 after the Department certifies the credit. Any credit that was
117 certified under this subsection on or after January 1, 2016,
118 expires 12 years after the Department certifies the credit, except
119 that any credit certified between January 1, 2016, and January 1,
120 2022, in the amount of at least \$3 million expires 16 years after
121 the Department certifies the credit.

122 * * *

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

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

135 [(B) the cost of an improvement in a Unified Mobility Program
136 or the White Oak Local Area Transportation Improvement
137 Program to the extent it exceeds the property owner’s fee
138 under a Unified Mobility Program or the White Oak Local
139 Area Transportation Improvement Program.]

140 * * *

141 **52-49. Tax rates.**

142 * * *

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

149 (1) 60[%] percent of the otherwise applicable rate if located in an
150 Orange Policy Area; or

151 (2) 68[%] percent of the otherwise applicable rate if located in a
152 Yellow Policy Area.

153 [(i) Any single-family ~~[[detached residential or detached single-family]]~~
154 attached or detached dwelling ~~[[units]] unit with a gross floor area of~~
155 1,800 square feet or less must pay the tax at 50 percent of the otherwise
156 applicable rate.]]

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

187 [(8) a multifamily dwelling unit with 3 or more bedrooms in a
188 multifamily structure; or]

189 [(9)] [(8) an office-to-residential conversion when the building is
190 adaptively reused or renovated for multifamily housing[;].]

191 * * *

192 **52-55. Tax rates.**

193 * * *

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

203 * * *

204 [(3) Calculation of impact tax rates. The tax rates must reflect the
205 County’s cost to construct a student seat, reducing the rates by a
206 factor equivalent to the portion of funding for capacity-adding
207 projects in the adopted school CIP attributed to State Aid.]

208 * * *

209 (f) [A three-bedroom multi-family dwelling unit located in an Infill Impact
210 Area must pay the tax at 40% of the otherwise applicable rate.] [[Any
211 single-family [[detached residential or detached single-family]]
212 attached or detached dwelling [[units]] unit with a gross floor area of
213 1,800 square feet or less must pay the tax at 50 percent of the otherwise

214 applicable rate.]] A 3-bedroom multi-family dwelling unit located in an
215 Infill Impact Area must pay the tax at 40 percent of the otherwise
216 applicable rate.

217 [[g) An office-to-residential conversion when demolition is involved in the
218 conversion of office to multifamily or single-family attached housing
219 must pay the tax at 50 percent of the otherwise applicable rate.]]

220 [[h)](g) Stacked flats must pay the multifamily low-rise applicable rate.

221 [[i)](h) A 1-bedroom garden apartment must be calculated using the
222 high-rise residential rate if the preliminary plan was approved before
223 January 1, 2025.

224 * * *

225 **52-59. Utilization Premium Payment.**

226 * * *

227 (c) The Director of Finance, after advertising and holding a public hearing,
228 must adjust the rates set in or under this Section effective on July 1 of
229 each odd-numbered year in accordance with the update to the
230 [Subdivision Staging] Growth and Infrastructure Policy using the latest
231 student generation rates and school construction cost data. The Director
232 must calculate the adjustment to the nearest multiple of one dollar. The
233 Director must publish the amount of this adjustment not later than May
234 1 of each odd-numbered year.

235 * * *

236 (e) The Department of Finance must retain funds collected under this
237 Section in an account to be appropriated for:


238 (1) any public school improvement that adds capacity designed to
239 alleviate overutilization in the school service area from which the
240 funds were collected; or

241 (2) for capital projects adding capacity at any school adjacent to the
242 school for which the funds were collected. Adjacent schools must
243 be determined using the Planning Board’s Annual School
244 Utilization Report.

245 * * *

246 **Sec. 2. [[Transition]] Expedited Effective Date. The Council declares that
247 this legislation is necessary for the immediate protection of the public interest. The
248 amendments made in Section 1 take effect on January 1, 2025, and must apply to
249 any application for a building permit filed on or after January 1, 2025.**

Approved:



Andrew Friedson, President, County Council

November 12, 2024

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date