



**Committee:** Directly to Council  
**Committee Review:** At a future date  
**Staff:** Robert H. Drummer, Senior Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #Transportation&SchoolImprovements

AGENDA ITEM 13B  
January 12, 2021  
**Introduction**

## SUBJECT

Expedited Bill 2-21, Taxation – Development Impact Taxes for Transportation and Public School Improvements - Amendments – Effective Date

Lead Sponsor: County Council

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce Bill – no vote expected

## DESCRIPTION/ISSUE

Bill 2-21 would change the effective date of Chapter 37, Laws of Montgomery County 2020 (Bill 38-20).

## SUMMARY OF KEY DISCUSSION POINTS

Should the effective date for Bill 38-20 be made consistent with the previously adopted impact tax and Utilization Premium Payment rates.

### This report contains:

Expedited Bill 2-21	©1
Legislative Request Report	©3
Final Re-enacted Bill 38-20	©4

F:\LAW\BILLS\2102 Bill 38-20 Effective Date\Intro Cover Sheet.Docx

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**MEMORANDUM**

January 7, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 2-21, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments - Effective Date

PURPOSE: Introduction – No Council vote required

Expedited Bill 2-21, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments - Effective Date, sponsored by Lead Sponsor, County Council, is scheduled to be introduced on January 12, 2021. A public hearing is tentatively scheduled for January 19, 2021 at 1:30 p.m.<sup>1</sup>

Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements – Amendment was enacted with an effective date of February 26, 2021. The revised impact tax rates and the rates for the new Utilization Premium Payment tax were all set to take effect on February 26 as well. However, the Executive vetoed the Bill. Therefore, the Bill did not take effect until the Council overrode the Executive’s veto on December 8. Due to the Executive’s veto and the Council enactment over the veto, the Bill is now set to take effect 91 days after December 8, or March 9. Under Charter Section 112, a non-expedited bill takes effect 91 days after it becomes law.

Bill 38-20 was enacted as part of the Council’s approval of the Subdivision Staging Policy (Growth and Infrastructure Policy). Bill 3-21 would change the effective date of Chapter 37, Laws of Montgomery County 2020 (Bill 38-20) back to February 26, 2021, consistent with the Council’s intent. If Bill 2-21 is enacted, the effective date for Bill 38-20 would then become consistent with the effective date for the Utilization Premium Payment tax rates and the revised impact tax rates adopted along with the Subdivision Staging Policy (Growth and Infrastructure Policy) in November.

This packet contains:	<u>Circle #</u>
Expedited Bill 2-21	1
Legislative Request Report	3
Final Re-enacted Bill 38-20	4

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<sup>1</sup>#Transportation&SchoolImprovements

Expedited Bill No. 2-21  
Concerning: Taxation – Development  
Impact Taxes for Transportation and  
Public School Improvements -  
Amendments – Effective Date  
Revised: 12-9-20 Draft No. 1  
Introduced: January 12, 2021  
Expires: July 12, 2022  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: County Council

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**AN EXPEDITED ACT to:**

Change the effective date of Chapter 37, Laws of Montgomery County 2020

By amending

Chapter 37, Laws of Montgomery County 2020

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*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:*



## LEGISLATIVE REQUEST REPORT

Expedited Bill 2-21

*Taxation – Development Impact Taxes for Transportation and Public School Improvements - Amendments  
– Effective Date*

<b>DESCRIPTION:</b>	Bill 2-21 would change the effective date of Chapter 37, Laws of Montgomery County 2020.
<b>PROBLEM:</b>	When the Council overrode the Executive’s veto of Bill 38-20, the effective date for the law was pushed back to March 9, 2021.
<b>GOALS AND OBJECTIVES:</b>	Change the effective date of Bill 38-20 back to February 26, 2021.
<b>COORDINATION:</b>	
<b>FISCAL IMPACT:</b>	To be provided
<b>ECONOMIC IMPACT:</b>	To be provided
<b>EVALUATION:</b>	To be provided
<b>EXPERIENCE ELSEWHERE:</b>	To be researched
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, Senior Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	N/A
<b>PENALTIES:</b>	N/A

Bill No. 38-20  
Concerning: Taxation - Development  
Impact Taxes for Transportation and  
Public School Improvements -  
Amendments  
Revised: 12/08/2020 Draft No. 13  
Introduced: July 29, 2020  
Enacted: November 16, 2020  
Executive: Vetoed: November 30, 2020  
Re-enacted after Veto: December 8, 2020  
Effective: March 9, 2021  
Sunset Date: None  
Ch. 37, Laws of Mont. Co. 2020

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN ACT** to:

- (1) update transportation and school impact tax districts;
- (2) establish impact tax rates by school impact tax districts;
- (3) eliminate the school impact tax premium on certain types of dwelling units;
- (4) modify the applicability of development impact tax exemptions for certain uses and in certain locations; **[[and]]**
- (5) establish a Utilization Premium Payment for certain developments to reduce school overcapacity; **[[and]]**
- (6) define an agricultural facility;
- (7) provide a discount on certain impact tax rates for certain types of developments and for developments in certain areas; and
- (8) generally amend the law governing transportation and school development impact taxes.

By amending

Montgomery County Code

Chapter 52, Taxation

Sections 52-39, 52-41, 52-49, 52-50, 52-52, 52-54, 52-55, **[[and]]** 52-58, and 52-59

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*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:*

1           **Sec. 1. Sections 52-39, 52-41, 52-49, 52-50, 52-52, 52-54, 52-55, [[and]] 52-**  
 2 **58, and 52-59 are amended as follows:**

3 **52-39. Definitions.**

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

5           *Additional capacity* means a new road, [[widening an existing road,]] adding  
 6 an additional lane or turn lane to an existing road, or another transportation  
 7 improvement that:

8                   (1) increases the maximum theoretical volume of traffic that a road  
 9 or intersection can accommodate, or implements or improves  
 10 transit, pedestrian and bike facilities or access to non-auto modes  
 11 of travel; and

12                   (2) is classified as a minor arterial, arterial, parkway, major highway,  
 13 controlled major highway, or freeway in the County’s Master  
 14 Plan of Highways, or is similarly classified by a municipality.  
 15 The Director of Transportation may find that a specified business  
 16 district street or industrial street also provides additional capacity  
 17 as defined in this provision.

18           *Adequate Public Facilities Ordinance policy area transportation adequacy*  
 19 *standards* means standards by which the area-wide adequacy of transportation  
 20 facilities serving a proposed development are judged. APFO policy area  
 21 transportation adequacy standards do not include requirements for other on-  
 22 site or off-site transportation improvements that may be separately required  
 23 or standards relating to local area review which may be independently  
 24 required.

25           *Agricultural facility* means a building or structure, or portion of a building or  
 26 structure that is used exclusively for the storage or processing of an

27 agricultural product to prepare the product for market and is located in the  
28 Agricultural Reserve, Rural Residential, RE-1 or RE-2 Zones.

29 *Applicant* means the property owner, or duly designated agent of the property  
30 owner, of land on which a building permit has been requested for  
31 development.

32 \* \* \*

33 **52-41. Imposition and applicability of development impact taxes.**

34 \* \* \*

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

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

39 (2) *Red Policy Areas*: Bethesda CBD, Chevy Chase Lake, ~~[[Dale~~  
40 ~~Drive/Manchester Place,]]~~ Forest Glen, Friendship Heights,  
41 Grosvenor, Glenmont, ~~[[Long Branch, Lyttonsville/Woodside]]~~,  
42 Lyttonsville, Medical Center, Purple Line East, Rockville Town  
43 Center, Shady Grove ~~[[Metro Station]]~~, Silver Spring CBD,  
44 ~~[[Takoma/Langley]]~~ Takoma, Twinbrook, ~~[[and]]~~ Wheaton  
45 CBD and Woodside;

46 (3) *Orange Policy Areas*: Bethesda/Chevy Chase, Burtonsville  
47 Crossroads, [Chevy Chase Lake,] Clarksburg Town Center,  
48 Derwood, Gaithersburg City, Germantown Town Center,  
49 Kensington/Wheaton, [Long Branch,] North Bethesda, R&D  
50 Village, Rockville City, Silver Spring/Takoma Park,  
51 [Takoma/Langley,] White Flint, except the portion that is  
52 included in the White Flint Special Taxing District in Section  
53 68C-2, and White Oak Policy Areas;



- 54 (4) *Yellow Policy Areas:* Aspen Hill, Clarksburg, Cloverly,  
55 Fairland/Colesville, Germantown East, Germantown West,  
56 Montgomery Village/Airpark, North Potomac, Olney, and  
57 Potomac Policy Areas; and
- 58 (5) *Green Policy Areas:* Damascus, Rural East, and Rural West  
59 Policy Areas.

60 \* \* \*

- 61 (g) A development impact tax must not be imposed on:
  - 62 (1) any Moderately Priced Dwelling Unit built under Chapter 25A  
63 or any similar program enacted by either Gaithersburg or  
64 Rockville[.];
  - 65 (2) any other dwelling unit built under a government regulation or  
66 binding agreement that limits for at least 15 years the price or  
67 rent charged for the unit in order to make the unit affordable to  
68 households earning less than 60% of the area median income,  
69 adjusted for family size;
  - 70 (3) any Personal Living Quarters unit built under [Sec. 59-A-6.15]  
71 Section 59-3.3.2.D, which meets the price or rent eligibility  
72 standards for a moderately priced dwelling unit under Chapter  
73 25A;
  - 74 (4) any dwelling unit in an Opportunity Housing Project built under  
75 Sections 56-28 through 56-32, which meets the price or rent  
76 eligibility standards for a moderately priced dwelling unit under  
77 Chapter 25A;
  - 78 (5) [any non-exempt dwelling unit in a development in which at least  
79 25% of the dwelling units are exempt under paragraph (1), (2),  
80 (3), or (4), or any combination of them;

- 81                   6]     any development located in an enterprise zone designated by the
- 82                             State [or in an area previously designated as an enterprise zone];
- 83                   (6)   except for a development located in the City of Rockville, any
- 84                             development located in a Qualified Opportunity Zone certified
- 85                             by the United States Treasury Department;
- 86                   (7)   a house built by high school students under a program operated
- 87                             by the Montgomery County Board of Education; [and] or
- 88                   (8)   a farm tenant dwelling.
- 89           (h)    The development impact tax does not apply to:
- 90                   (1)   any reconstruction or alteration of an existing building or part of
- 91                             a building that does not increase the gross floor area of the
- 92                             building;
- 93                   (2)   any ancillary building in a residential development that:
- 94                             (A)   does not increase the number of dwelling units in that
- 95                                     development; and
- 96                             (B)   is used only by residents of that development and their
- 97                                     guests, and is not open to the public; and
- 98                   (3)   any building that replaces an existing building on the same site
- 99                             or in the same project (as approved by the Planning Board or the
- 100                             equivalent body in Rockville or Gaithersburg) to the extent of the
- 101                             gross floor area of the previous building, if:
- 102                             (A)   [[construction begins]] an application for a building permit
- 103                                     is filed within four years [[one year]] after demolition or
- 104                                     destruction of the previous building was substantially
- 105                                     completed; [[or]]
- 106                             (B)   the Director of the Department of Permitting Services or
- 107                                     the Director's designee finds that the applicant was unable

108 to apply for a building permit or commence construction  
109 within four years after demolition or destruction of the  
110 previous building was substantially completed due to  
111 circumstances beyond the control of the applicant or the  
112 applicant’s agents; or

113 (C) the previous building is demolished or destroyed, after the  
114 replacement building is built, by a date specified in a  
115 phasing plan approved by the Planning Board or  
116 equivalent body.

117 However, if in ~~[[either]]~~ any case the development impact tax  
118 that would be due on the new, reconstructed, or altered building  
119 is greater than the tax that would have been due on the previous  
120 building if it were taxed at the same time, the applicant must pay  
121 the difference between those amounts.

122 **52-49. Tax rates.**

123 \* \* \*

124 (g) Any non-exempt dwelling unit in a development in which at least 25%  
125 of the dwelling units are exempt under Section 52-41(g)(1) must pay  
126 the tax discounted by an amount equal to the ~~[[lowest standard]]~~ impact  
127 tax rate applicable in the ~~[[County]]~~ Red Policy Area for that unit type.

128 (h) Except for a development located in the City of Rockville, any  
129 development located in a Desired Growth and Investment Area, as  
130 defined in the 2020-2024 Growth and Infrastructure Policy  
131 (Subdivision Staging Policy), must pay the tax at:

132 (1) ~~[[40%]]~~ 60% of the otherwise applicable rate if located in an  
133 Orange Policy Area; or



- 161 (1) any Moderately Priced Dwelling Unit built under Chapter 25A  
 162 or any similar program enacted by either Gaithersburg or  
 163 Rockville[.];
- 164 (2) any other dwelling unit built under a government regulation or  
 165 binding agreement that limits for at least 15 years the price or  
 166 rent charged for the unit in order to make the unit affordable to  
 167 households earning equal to or less than 60% of the area median  
 168 income, adjusted for family size;
- 169 (3) any Personal Living Quarters unit built under Section 59-  
 170 3.3.2.D, which meets the price or rent eligibility standards for a  
 171 moderately priced dwelling unit under Chapter 25A;
- 172 (4) any dwelling unit in an Opportunity Housing Project built under  
 173 Sections 56-28 through 56-32, which meets the price or rent  
 174 eligibility standards for a moderately priced dwelling unit under  
 175 Chapter 25A;
- 176 (5) [any non-exempt dwelling unit in a development in which at least  
 177 25% of the dwelling units are exempt under paragraph (1), (2),  
 178 (3), or (4), or any combination of them;
- 179 (6)] any development located in an enterprise zone designated by the  
 180 State; [or in an area previously designated as an enterprise zone;  
 181 or]
- 182 (6) except for a development located in the City of Rockville, any  
 183 development located in a Qualified Opportunity Zone certified  
 184 by the United States Treasury Department; or
- 185 (7) a house built by high school students under a program operated  
 186 by the Montgomery County Board of Education.
- 187 ~~[(d)]~~ (e) The tax under this Article does not apply to:

- 188 (1) any reconstruction or alteration of an existing building or part of  
 189 a building that does not increase the number of dwelling units of  
 190 the building;
- 191 (2) any ancillary building in a residential development that:
- 192 (A) does not increase the number of dwelling units in that  
 193 development; and
- 194 (B) is used only by residents of that development and their  
 195 guests, and is not open to the public; and
- 196 (3) any building that replaces an existing building on the same site  
 197 or in the same project (as approved by the Planning Board or the  
 198 equivalent body in Rockville or Gaithersburg) to the extent of the  
 199 number of dwelling units of the previous building, if:
- 200 (A) [[construction begins]] an application for a building permit  
 201 is filed within four years [[one year]] after demolition or  
 202 destruction of the previous building was substantially  
 203 completed; [[or]]
- 204 (B) the Director of the Department of Permitting Services or  
 205 the Director's designee finds that the applicant was unable  
 206 to apply for a building permit or commence construction  
 207 within four years after demolition or destruction of the  
 208 previous building was substantially completed due to  
 209 circumstances beyond the control of the applicant or the  
 210 applicant's agents; or
- 211 (C) the previous building is demolished or destroyed, after the  
 212 replacement building is built, by a date specified in a  
 213 phasing plan approved by the Planning Board or  
 214 equivalent body.

215                    However, if in ~~[[either]]~~ any case the tax that would be due on the new,  
 216                    reconstructed, or altered building is greater than the tax that would have  
 217                    been due on the previous building if it were taxed at the same time, the  
 218                    applicant must pay the difference between those amounts.

219                    ~~[[e)]]~~ (f)    If the type of proposed development cannot be categorized under  
 220                    the residential definitions in Section 52-39 and 52-52, the Department  
 221                    must use the rate assigned to the type of residential development which  
 222                    generates the most similar school enrollment characteristics.

223                    ~~[[f)]]~~ (g)    A Clergy House must pay the impact tax rate that applies to a  
 224                    place of worship under Section 52-41(d) if the house:

- 225                    (1)    is on the same lot or parcel, adjacent to, or confronting the  
 226                    property on which the place of worship is located; and  
 227                    (2)    is incidental and subordinate to the principal building used by the  
 228                    religious organization as its place of worship.

229                    The place of worship tax rate does not apply to any portion of a Clergy  
 230                    House that is nonresidential development.

231                    **52-55. Tax rates.**

232                    (a)    The Council must establish the [Countywide] rates for each school  
 233                    impact tax district [the tax under this Article] by resolution after a  
 234                    public hearing advertised at least 15 days in advance.

235                    (b)    [The tax on any single-family detached or attached dwelling unit must  
 236                    be increased by \$2 for each square foot of gross floor area that exceeds  
 237                    3,500 square feet, to a maximum of 8,500 square feet.]

238                    [[Any non-exempt single-family attached or multifamily unit located in  
 239                    a Desired Growth and Investment Area, as defined in the County  
 240                    Growth Policy, must pay the tax at 60% of the otherwise applicable  
 241                    rate.

242 (c)] Any Productivity Housing unit, as defined in Section 25B-17(j), must  
 243 pay the tax at 50% of the otherwise applicable rate.

244 [(d)] (c) The County Council by resolution, after a public hearing  
 245 advertised at least 15 days in advance, may increase or decrease the  
 246 rates established under this Section.

247 [(e)] (d) The Director of Finance, after advertising and holding a public  
 248 hearing as required by Section 52-17(c), must adjust the tax rates set in  
 249 or under this Section effective on July 1 of each odd-numbered year in  
 250 accordance with the update to the Subdivision Staging Policy using the  
 251 latest student generation rates and school construction cost data. The  
 252 Director must calculate the adjustment to the nearest multiple of one  
 253 dollar. The Director must publish the amount of this adjustment not  
 254 later than May 1 of each odd-numbered year.

255 [(f)] (e) Any non-exempt dwelling unit in a development in which at least  
 256 25% of the dwelling units are exempt under Section [[52-41(g)(1)] 52-  
 257 54(d)(1) must pay the tax discounted by an amount equal to the [[lowest  
 258 standard]] impact tax rate applicable in the [[County]] Infill School  
 259 Impact Area for that unit type up to the amount of the impact tax  
 260 otherwise applicable.

261 (f) A three-bedroom multi-family dwelling unit located in an Infill Impact  
 262 Area must pay the tax at 40% of the otherwise applicable rate.

263 **52-58. Credits.**

264 (a) Section 52-47 does not apply to the tax under this Article.

265 (b) A property owner must receive a credit for constructing or contributing  
 266 to an improvement of the type listed in Section 52-56(d), including  
 267 costs of site preparation.



268 (c) [[A property owner may receive credit for constructing or contributing  
 269 to other physical school facility improvements not listed in Section 52-  
 270 56(d) if the Montgomery County School Board agrees to the  
 271 improvement.

272 (d)] A property owner may receive credit for land dedicated for a school  
 273 site, if:

- 274 (1) the density calculated for the dedication area is excluded from
- 275 the density calculation for the development site; and
- 276 (2) the Montgomery County School Board agrees to the site
- 277 dedication.

278 [(b)] [(e)] (d) If the property owner elects to make a qualified  
 279 improvement or dedication, the owner must enter into an agreement  
 280 with the Director of Permitting Services, or receive a development  
 281 approval based on making the improvement, before any building permit  
 282 is issued. The agreement or development approval must contain:

- 283 (1) the estimated cost of the improvement or the fair market value of
- 284 the dedicated land, if known then[,];
- 285 (2) the dates or triggering actions to start and, if known then, finish
- 286 the improvement or land transfer;
- 287 (3) a requirement that the property owner complete the improvement
- 288 according to Montgomery County Public Schools standards; and
- 289 (4) such other terms and conditions as MCPS finds necessary.

290 [(c)] [(f)] (e) MCPS must:

- 291 (1) review the improvement plan or dedication;
- 292 (2) verify costs or land value and time schedules;
- 293 (3) determine whether the improvement is a public school
- 294 improvement of the type listed in Section 52-56(d)[, meets the

295 requirements of subsection (c),]] or meets the dedication  
 296 requirements in subsection [(a)] ~~[(d)]~~ (c);

297 (4) determine the amount of the credit for the improvement or  
 298 dedication; and

299 (5) certify the amount of the credit to the Department of Permitting  
 300 Services before that Department or a municipality issues any  
 301 building permit.

302 ~~[(d)]~~ ~~[(g)]~~ (f) An applicant for subdivision, site plan, or other  
 303 development approval from the County, Gaithersburg, or Rockville, or  
 304 the owner of property subject to an approved subdivision plan,  
 305 development plan, floating zone plan, or similar development approval,  
 306 may seek a declaration of allowable credits from MCPS. MCPS must  
 307 decide, within 30 days after receiving all necessary materials from the  
 308 applicant, whether any public school improvement which the applicant  
 309 has constructed, contributed to, or intends to construct or contribute to,  
 310 will receive a credit under this subsection. If during the initial 30-day  
 311 period after receiving all necessary materials, MCPS notifies the  
 312 applicant that it needs more time to review the proposed improvement,  
 313 MCPS may defer its decision an additional 15 days. If MCPS indicates  
 314 under this paragraph that a specific improvement is eligible to receive  
 315 a credit, the Director of Permitting Services must allow a credit for that  
 316 improvement. If MCPS cannot or chooses not to perform any function  
 317 under this subsection or subsection (c), the Department of Permitting  
 318 Services must perform that function.

319 ~~[(e)]~~ ~~[(h)]~~ (g) (1) A property owner must receive a credit for  
 320 constructing or contributing to the cost of building a new single

321 family residence that meets Level I Accessibility Standards, as  
 322 defined in Section 52-107(a).

- 323 (2) The credit allowed under this Section must be as follows:
- 324 (A) If at least 5% of the single family residences built in the  
 325 project meet Level I Accessibility Standards, then the  
 326 owner must receive a credit of \$250 per residence.
- 327 (B) If at least 10% of the single family residences built in the  
 328 project meet Level I Accessibility Standards, then the  
 329 owner must receive a credit of \$500 per residence.
- 330 (C) If at least 25% of the single family residences built in the  
 331 project meet Level I Accessibility Standards, then the  
 332 owner must receive a credit of \$750 per residence.
- 333 (D) If at least 30% of the single family residences built in the  
 334 project meet Level I Accessibility Standards, then the  
 335 owner must receive a credit of \$1,000 per residence.
- 336 (3) Application for the credit and administration of the credit must  
 337 be in accordance with Subsections 52-107(e) and (f).
- 338 (4) A person must not receive a tax credit under this Section if the  
 339 person receives any public benefit points for constructing units  
 340 with accessibility features under Chapter 59.

341 ~~[(f)]~~ ~~[[i)]~~ (h) The Director of Finance must not provide a refund for a  
 342 credit which is greater than the applicable tax.

343 ~~[(g)]~~ ~~[[j)]~~ (i) Any credit issued under this Section before December 31,  
 344 2015 expires 6 years after the Director certifies the credit. Any credit  
 345 issued under this Section on or after January 1, 2016 expires 12 years  
 346 after the Director certifies the credit.



373 improvement that adds capacity designed to alleviate overutilization in  
 374 the school service area from which the funds were collected.

375 (f) The Utilization Premium Payment must not be imposed on any:

376 (1) Moderately Priced Dwelling Unit built under Chapter 25A or any  
 377 similar program enacted by either Gaithersburg or Rockville;

378 (2) other dwelling unit built under a government regulation or  
 379 binding agreement that limits for at least 15 years the price or  
 380 rent charged for the unit in order to make the unit affordable to  
 381 households earning equal to or less than 60% of the area median  
 382 income, adjusted for family size;

383 (3) Personal Living Quarters unit built under Section 59-3.3.2.D,  
 384 which meets the price or rent eligibility standards for a  
 385 moderately priced dwelling unit under Chapter 25A; or

386 (4) dwelling unit in an Opportunity Housing Project built under  
 387 Sections 56-28 through 56-32, which meets the price or rent  
 388 eligibility standards for a moderately priced dwelling unit under  
 389 Chapter 25A.

390 **Sec. 2. Effective date -Transition.**

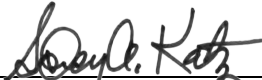
391 This Act takes effect on [[February 26, 2021]] March 9, 2021. The  
 392 amendments in Section 1 [[take effect on March 1, 2021 and]] must apply to:

393 (1) any application for a building permit filed on or after [[March 1]]  
 394 February 26, 2021; except for

395 (2) [[that the amendments related to discounts or exemptions for projects  
 396 with 25% MPDUs must only apply to]] any dwelling unit in a  
 397 development for which a preliminary plan application is filed [[and  
 398 accepted on or after]] prior to [[March 1]] February 26, 2021 that

399 includes 25% affordable units as defined in Sections 52-41(g)(1)  
400 through 52-41(g)(4) or 52-54(d)(1) through 52-54(d)(4); or  
401 (3) any development in a former Enterprise Zone for which a preliminary  
402 plan application is filed and accepted before January 1, 2021.


Approved:

  
\_\_\_\_\_  
Sidney Katz, President, County Council  
11/17/2020  
Date

Approved:

DISAPPROVED  
November 30, 2020  
\_\_\_\_\_  
Marc Elrich, County Executive  
Date

Re-enacted by Council:

  
\_\_\_\_\_  
Tom Hucker, President, County Council  
12/8/2020  
Date

*This is a correct copy of Council action.*

  
\_\_\_\_\_  
Selena Mendy Singleton, Esq., Clerk of the Council  
12/9/2020  
Date