

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 2019, Legislative Day No. 8

Bill No. 23-19

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Mr. Tom Quirk, Chairman  
By Request of County Executive

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By the County Council, April 15, 2019

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A BILL  
ENTITLED

AN ACT concerning

Development Impact Surcharge

FOR the purpose of imposing an excise tax known as the Development Impact Surcharge;  
providing for certain exceptions; providing for the determination of the Development  
Impact Surcharge; providing for the rate of the Development Impact Surcharge for  
certain types of structures; providing for the collection of the Development Impact  
Surcharge; providing for an appeal of the Development Impact Surcharge imposed;  
providing for the refund of the Development Impact Surcharge paid under certain  
circumstances; requiring annual review of the Development Impact Surcharge rates and a  
certain annual recommendation; preserving certain authority of the county; providing that  
the Development Impact Surcharge constitutes a lien on certain real property; defining  
certain terms; providing for the application of this Act; requiring the Director of Budget

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter stricken from existing law.  
~~Strike out~~ indicates matter stricken from bill.  
Underlining indicates amendments to bill.



1 § 11-4-301.

2

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (B) "ADDITION CONSTRUCTION" MEANS THE CONSTRUCTION,  
6 REHABILITATION, RENOVATION, OR ALTERATION OF A BUILDING OR  
7 STRUCTURE FOR WHICH A BUILDING PERMIT IS REQUIRED AND WHERE THE  
8 ADDITION:

9 (1) FOR A RESIDENTIAL STRUCTURE, INCREASES THE NUMBER OF  
10 DWELLING UNITS INTENDED FOR OCCUPANCY OF AN EXISTING STRUCTURE, OR  
11 CONVERTING A NONRESIDENTIAL STRUCTURE TO A RESIDENTIAL STRUCTURE;  
12 OR

13 (2) FOR A NONRESIDENTIAL STRUCTURE, INCREASES THE NUMBER  
14 OF GROSS SQUARE FEET ON THE PROPERTY AND IS INTENDED FOR OCCUPANCY.

15 (C) "APPLICANT" MEANS THE INDIVIDUAL, PARTNERSHIP, CORPORATION,  
16 OR LEGAL ENTITY WHOSE SIGNATURE APPEARS ON A BUILDING PERMIT  
17 APPLICATION.

18 (D) "BUILDING" HAS THE MEANING STATED IN § 32-4-101 OF THE CODE.

19 (E) "CAPITAL IMPROVEMENT" HAS THE MEANING STATED IN § 10-2-101 OF  
20 THE CODE.

21 (F) "CONSTRUCTION" MEANS CONSTRUCTION OR ALTERATION OF A  
22 BUILDING OR A PART OF A BUILDING THAT REQUIRES A BUILDING PERMIT.

1 (G) "DEVELOPMENT IMPACT SURCHARGE" MEANS THE TAX IMPOSED  
2 UNDER THIS SUBTITLE.

3 (H)(1) "DWELLING UNIT" MEANS A SINGLE UNIT PROVIDING COMPLETE,  
4 INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS THAT HAS  
5 PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, OR  
6 SANITATION AND IS LOCATED IN A STRUCTURE CONTAINING A MINIMUM GROSS  
7 FLOOR AREA OF 600 SQUARE FEET.

8 (2) "DWELLING UNIT" INCLUDES A LIVING QUARTERS FOR A  
9 DOMESTIC OR OTHER EMPLOYEE OR TENANT, AN IN-LAW OR ACCESSORY  
10 APARTMENT, A GUEST HOUSE OR CARETAKER RESIDENCE.

11 (I) "GROSS SQUARE FOOTAGE" MEANS THE ENTIRE INTERIOR OF A  
12 STRUCTURE, FINISHED OR UNFINISHED.

13 (J) "MIXED-USE STRUCTURE" MEANS A STRUCTURE OR PART OF A  
14 STRUCTURE, BUT NOT A SEPARATED OCCUPANCY, HAVING ANY COMBINATION  
15 OF RESIDENTIAL USE OR NONRESIDENTIAL USE.

16 (K)(1) "NEW CONSTRUCTION" MEANS CONSTRUCTION OF A BUILDING OR  
17 STRUCTURE THAT REQUIRES A BUILDING PERMIT.

18 (2) "NEW CONSTRUCTION" DOES NOT INCLUDE:

19 (I) FOR A RESIDENTIAL STRUCTURE WHERE THE BUILDING  
20 REPLACES AN EXISTING RESIDENTIAL BUILDING:

21 1. REPLACEMENT OF A BUILDING DUE TO CASUALTY,  
22 LOSS, OR DEMOLITION WITHIN THREE YEARS AFTER THAT CASUALTY, LOSS OR  
23 DEMOLITION; OR



1                   (4) "RESIDENTIAL" DOES NOT INCLUDE DETACHED ACCESSORY  
2 BUILDINGS SUCH AS DETACHED GARAGES OR SHEDS THAT DO NOT CONTAIN  
3 ANY LIVING QUARTERS.

4                   (O) "SEPARATED OCCUPANCY" MEANS A DISCRETE PART OF A STRUCTURE  
5 HAVING A PRINCIPAL USE THAT IS DISTINCT FROM OTHER USES IN THE SAME  
6 STRUCTURE, INCLUDING TO A STORE IN A MALL OR AN OFFICE IN A MULTI-UNIT  
7 OFFICE BUILDING.

8 § 11-4-302.

9                   IN ACCORDANCE WITH § 11-1-102 OF THIS ARTICLE, THERE IS LEVIED AND  
10 IMPOSED A TAX KNOWN AS THE DEVELOPMENT IMPACT SURCHARGE ON ALL  
11 NEW CONSTRUCTION AND ADDITION CONSTRUCTION IN THE COUNTY.

12 § 11-4-303.

13                   (A)(1) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15                   (2)(I) "FARM CONSTRUCTION" MEANS CONSTRUCTION INTENDED TO  
16 BE ACTIVELY USED FOR FARM USE.

17                   (II) "FARM CONSTRUCTION" DOES NOT INCLUDE RESIDENTIAL  
18 CONSTRUCTION ON A FARM.

1                   (3) "FARM USE" MEANS THE RAISING OF FARM PRODUCTS FOR USE  
2 OR SALE, INCLUDING ANIMAL OR POULTRY HUSBANDRY, ANIMAL HUSBANDRY  
3 FACILITIES, AQUACULTURE AND GROWING OF CROPS INCLUDING GRAIN,  
4 VEGETABLES, FRUIT, GRASS FOR PASTURE OR SOD TREES, SHRUBS, FLOWERS  
5 AND SIMILAR PRODUCTS OF THE SOIL.

6                   (4)(I) FARM CONSTRUCTION IS NOT SUBJECT TO THE DEVELOPMENT  
7 IMPACT SURCHARGE SO LONG AS THE CONSTRUCTION CONTINUES TO BE  
8 ACTIVELY USED FOR FARM USE.

9                   (II) IF THE CONSTRUCTION IS USED FOR SOME PURPOSE  
10 OTHER THAN ACTIVE FARM USE, THE DEVELOPMENT IMPACT SURCHARGE  
11 SHALL BE REMITTED TO THE DIRECTOR AT THE THEN EXISTING AMOUNT OF THE  
12 DEVELOPMENT IMPACT SURCHARGE.

13                  (B) THE DEVELOPMENT IMPACT SURCHARGE MAY NOT BE IMPOSED ON  
14 CONSTRUCTION BY THE COUNTY, THE BALTIMORE COUNTY BOARD OF  
15 EDUCATION, THE COMMUNITY COLLEGE OF BALTIMORE COUNTY, THE STATE OF  
16 MARYLAND, OR THE FEDERAL GOVERNMENT.

17                  (C) THE DEVELOPMENT IMPACT SURCHARGE MAY NOT BE IMPOSED ON  
18 STRUCTURES:

19                   (1) OWNED BY CORPORATIONS ORGANIZED AND OPERATED  
20 EXCLUSIVELY FOR RELIGIOUS PURPOSES WITHIN THE MEANING OF 26 U.S.C. §  
21 501; AND

22                   (2) USED PRIMARILY FOR RELIGIOUS PURPOSES.

1 (D) THE DEVELOPMENT IMPACT SURCHARGE MAY NOT BE IMPOSED ON A  
2 DWELLING UNIT BUILT UNDER A GOVERNMENT REGULATION OR BINDING  
3 AGREEMENT THAT LIMITS FOR AT LEAST 15 YEARS THE PRICE OR RENT  
4 CHARGED FOR THE UNIT IN ORDER TO MAKE THE UNIT AFFORDABLE TO  
5 HOUSEHOLDS EARNING LESS THAN 60% OF THE AREA MEDIAN INCOME,  
6 ADJUSTED FOR FAMILY SIZE.

7 (E) THE DEVELOPMENT IMPACT SURCHARGE MAY NOT BE IMPOSED ON  
8 CONSTRUCTION THAT OCCURS IN AN ENTERPRISE ZONE AS DEFINED IN § 5-701  
9 OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF  
10 MARYLAND.

11  
12 § 11-4-304

13 (A) THE AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE TO BE PAID  
14 BY THE APPLICANT SHALL BE DETERMINED BY THE DIRECTOR OF PERMITS,  
15 APPROVALS AND INSPECTIONS BASED ON THE SCHEDULE OF RATES IN  
16 SUBSECTION (C) OF THIS SECTION.

17 (B) AN APPLICANT AGGRIEVED BY A DECISION OF THE DIRECTOR OF  
18 PERMITS, APPROVALS AND INSPECTIONS REGARDING THE CALCULATION OF  
19 THE AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE MAY APPEAL THE  
20 DECISION TO THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 30 DAYS  
21 AFTER THE DIRECTOR'S DECISION, PROVIDED THAT:

22 (1) PROCESSING OF THE BUILDING PERMIT IS DELAYED PENDING  
23 THE DECISION OF THE ADMINISTRATIVE LAW JUDGE; OR

1 (2) THE APPLICANT PAYS THE TAX BEFORE FILING THE APPEAL.

2 (C) THE DEVELOPMENT IMPACT SURCHARGE RATES SHALL BE IMPOSED

3 AS FOLLOWS:

4 **RESIDENTIAL**

5 SINGLE-FAMILY DETACHED \$10,000 PER UNIT

6 SINGLE-FAMILY SEMI-DETACHED \$10,000 PER UNIT

7 SINGLE-FAMILY ATTACHED \$7,500 PER UNIT

8 MULTI-FAMILY \$5,000 PER UNIT

9 **NONRESIDENTIAL**

10 COMMERCIAL \$1.50 PER SQUARE FOOT

11 MIXED-USE \$1.50 PER SQUARE FOOT

12 OFFICE \$1.50 PER SQUARE FOOT

13 INDUSTRIAL \$0.80 PER SQUARE FOOT

14 (C) THE DIRECTOR OF BUDGET AND FINANCE SHALL REVIEW THE

15 SCHEDULE OF RATES FOR THE DEVELOPMENT IMPACT SURCHARGE ANNUALLY

16 AND SHALL RECOMMEND TO THE COUNTY COUNCIL BY THE DATE OF

17 SUBMISSION FOR THE ANNUAL BUDGET AND APPROPRIATION ORDINANCE

18 WHETHER OR NOT TO MODIFY THE SCHEDULE FOR THE NEXT FISCAL YEAR

19 BASED ON NEW DATA OR TECHNICAL INFORMATION.

20 § 11-4-305.

1 (A) AN APPLICANT SHALL PAY THE DEVELOPMENT IMPACT SURCHARGE  
2 WHEN PAYING FOR A BUILDING PERMIT FOR ADDITION CONSTRUCTION OR NEW  
3 CONSTRUCTION.

4 (B) THE PAYMENT SHALL BE SUBMITTED TO THE DIRECTOR ALONG WITH  
5 ANY FORM AND ANY INFORMATION REQUIRED BY THE DIRECTOR.

6 (C)(1) THE DIRECTOR SHALL REFUND TO THE APPLICANT THE  
7 DEVELOPMENT IMPACT SURCHARGE PAID IF THE BUILDING PERMIT IS  
8 DISAPPROVED, CANCELED OR EXPIRES.

9 (2) IF, ON APPEAL BY AN APPLICANT WHO HAS PAID THE  
10 DEVELOPMENT IMPACT SURCHARGE, A FINAL NONAPPEALABLE DECISION HAS  
11 FOUND THAT THE DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS HAS  
12 ERRED IN CALCULATING THE DEVELOPMENT IMPACT SURCHARGE, THE  
13 DIRECTOR SHALL REFUND TO THE APPLICANT THE DIFFERENCE BETWEEN THE  
14 AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE PAID BY THE APPLICANT  
15 AND THE CORRECT AMOUNT.

16 (D) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO CHANGE OR  
17 SUPERSEDE ANY OTHER REQUIREMENT OF COUNTY, STATE OR FEDERAL LAW  
18 THAT MAY APPLY TO THE DEVELOPMENT, INCLUDING COUNTY ZONING LAW  
19 AND THE DEVELOPMENT REGULATIONS THAT MAY IMPOSE ON-SITE AND OFF-  
20 SITE INFRASTRUCTURE OR OTHER CAPITAL IMPROVEMENT REQUIREMENTS.

21 (E) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO LIMIT THE  
22 COUNTY'S AUTHORITY TO ENTER INTO DEVELOPMENT AGREEMENTS WITH

1 APPLICANTS FOR NEW OR EXPANDED DEVELOPMENTS THAT MAY PROVIDE FOR  
2 DEDICATION OF LAND, PAYMENTS IN LIEU OF TAXES OR FEES, OR ACTUAL  
3 INFRASTRUCTURE IMPROVEMENTS.

4 (F) UNPAID DEVELOPMENT IMPACT SURCHARGES ARE A LIEN AGAINST  
5 THE REAL PROPERTY FOR WHICH THE BUILDING PERMIT IS ISSUED AND SHALL  
6 BE LEVIED, COLLECTED AND ENFORCED IN THE SAME MANNER AS COUNTY  
7 REAL PROPERTY TAXES AND SHALL HAVE THE SAME PRIORITY AND BEAR THE  
8 SAME INTEREST AND PENALTIES AS COUNTY REAL PROPERTY TAXES FOR LIEN  
9 PURPOSES.

10 SECTION 2. AND BE IT FURTHER ENACTED, that a Development Impact Surcharge  
11 paid to the County within 180 days of the effective date of this Act shall be paid at 50% of the  
12 rates provided for in § 11-4-304 of the Baltimore County Code, 2015.

13  
14 SECTION 3. AND BE IT FURTHER ENACTED, that the Development Impact  
15 Surcharge provided for under Article 11, Title 4, Subtitle 3 of the Baltimore County Code, 2015  
16 may not be imposed for a building permit acquired by an "applicant" for "addition construction"  
17 or "new construction," as defined in the aforesaid subtitle, until the Director of Budget and  
18 Finance recommends and the County Council adopts by Resolution rates for: (1) senior housing  
19 facilities as defined in the Baltimore County Zoning Regulations and (2) Transit-oriented  
20 development as defined in § 7-101 of the Transportation Article of the Annotated Code of  
21 Maryland The Director may consider and recommend for approval by the County Council  
22 special rates for other types of development.

1           SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days  
2   from the date of enactment.