



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

MEMORANDUM

To: County Council  
From: Councilmembers Riemer and Friedson
Date: October 22, 2020
Re: Transportation impact taxes for agritourism

From farm-to-table, pick-your-own produce, and hands-on educational activities to award-winning wineries and farm breweries, agritourism is a critical and growing component of the County's rural economy. Agritourism also breathes fresh energy into our efforts to preserve farmland. It does this by supporting the financial viability of County farms *and* enlisting many more County residents into our farmland preservation efforts by providing them unforgettable experiences of our dynamic agricultural economy and its history.

While the County and the Council, in particular, have historically been strong supporters of agritourism (passing important zoning reforms to agritourism in 2014 and to farm alcohol production in 2018, and establishing the Agritourism Advisory Committee to provide recommendations on how to strengthen the sector), there remains a very large, and sometimes insurmountable, hurdle to opening agritourism businesses: transportation impact taxes. Traditionally, buildings used for agricultural purposes have been exempt from transportation impact taxes because they cause *de minimis* traffic. However, it has been brought to our attention by the agricultural community, due to certain provisions in the existing impact tax law and building code, agritourism businesses are facing enormous transportation impact tax bills that bear little connection to their actual impact on the transportation system.

Taking a step back, the County currently imposes transportation impact taxes based on a policy framework that tries to capture an amount of revenue equal to new development's impact on the transportation system. In other words, growth pays for growth. But to implement this policy framework in a cogent and fair way—after all, not all new development creates the same amount of trips—we have created a variety of use categories and geographic groupings and assigned them a specific tax rate. The matrix below shows the current rates.

Building Type	Red Policy Areas (Metro Stations)	Orange Policy Areas	Yellow Policy Areas	Green Policy Areas
Residential Uses				
Single-Family detached (per unit)	\$7,838	\$19,591	\$24,490	\$24,490
Single-Family attached (per unit)	\$6,413	\$16,030	\$20,038	\$20,038
Multifamily Low Rise (per unit)	\$4,986	\$12,465	\$15,582	\$15,582
Multifamily High Rise (per unit)	\$3,561	\$8,904	\$11,130	\$11,130
Senior Residential (per unit)	\$1,424	\$3,562	\$4,452	\$4,452
Student-Built Houses (per unit)	\$0.00	\$0.00	\$0.00	\$0.00
Commercial Uses				
Office (per sq. ft. GFA)	\$7.15	\$17.90	\$22.40	\$22.40
Industrial (per sq. ft. GFA)	\$3.60	\$8.90	\$11.20	\$11.20
Bioscience facility (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Retail (per sq. ft. GFA)	\$6.35	\$16.00	\$19.95	\$19.95
Place of worship (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Clergy House (per unit)	\$0.00	\$0.00	\$0.00	\$0.00
Private elementary and secondary school (per sq. ft. GFA)	\$0.55	\$1.45	\$1.85	\$1.85
Hospital (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Charitable, Philanthropic Institution (per sq. ft. GFA)	\$0.00	\$0.00	\$0.00	\$0.00
Other nonresidential (per sq. ft. GFA)	\$3.60	\$8.90	\$11.20	\$11.20

While agricultural buildings are generally exempt from impact taxes, new buildings being used for agritourism that require a commercial building permit have been categorized as industrial and/or retail and assessed the corresponding rates above. Indeed, since agritourism falls, by definition, into the green or yellow policy areas, they are being charged some of the highest rates or all commercial businesses in the county. For instance, this could result in ~\$125,000 in impact taxes for a typical winery or farm brewery with 7,500 sq ft. of production/storage (industrial) and 2,000 sq ft of tasting room space (retail), a modest size facility.

We believe that’s neither a good outcome nor consistent with the County’s policy framework for transportation impact taxes. Unlike an office building or shopping center, but like most buildings used for agriculture, the production/storage portion of an agritourism building has a nominal impact on the transportation system. That is the portion of a winery where grapes are stored and processed, for example. It should not be assessed transportation impact taxes.

Likewise, we are also keen on considering changes to the retail rate for agritourism buildings. While an agritourism business does produce customer vehicular trips, those trips tend to be non-peak trips (weekends) and be more seasonal. So we would expect less impact generally on the transportation system. We also want to acknowledge that these agritourism businesses are located in a unique part of the County that we want to promote. As such, trips created by visitors to these businesses should not necessarily be seen as burdensome but rather something we encourage.

Accordingly, we are proposing a two-prong solution. One, we propose amending Bill 38-20 to create a new use category for the production and storage of agricultural products and set the rate at \$0.00. The executive branch has helpfully drafted a definition for “Agricultural Facility”,

which you will find attached to this memo, and supports a \$0 rate for this portion. We appreciate their contributions to this discussion.

Two, we have concurrently requested that the planning department conduct an analysis of the transportation impact of the retail portion of agritourism businesses to help us determine a more appropriate rate. While we would expect the peak trips generated by the retail portion of agritourism business to be less, perhaps significantly, than the current retail rate contemplates, we could benefit from targeted analysis to determine just how much less. After reviewing this targeted analysis, we will likely introduce stand-alone legislation on retail rates for agritourism this winter.

We respectfully request your support of our attached amendment because it provides a more accurate accounting of agritourism's impact on our transportation system and just as importantly, helps support this important sector of the County's rural economy.

cc: Marc Elrich, County Executive
Casey Anderson, Chair, Planning Board
Gwen Wright, Director, Planning Department
Chris Conklin, Director, MCDOT
Jeremy Criss, Director, OAG

Agricultural Facility Amendment – Bill 38-20

Add the following after line 18:

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

Agricultural facility means a building or structure, or portion of a building or structure, in the Agricultural or Rural Residential Zones that is used exclusively for the storage or processing of an agricultural product to prepare the product for market.

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