



THE PRINCE GEORGE'S COUNTY GOVERNMENT


Office of Audits and Investigations

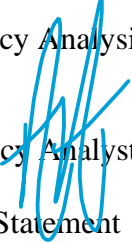
October 12, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Arian Albear 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Statement
CR-104-2022 Public Safety Facilities Surcharge Waiver

CR-104-2022 (*Proposed by:* The Chair of the Council at the request of the County Executive;
Introduced by: Council Members Hawkins, Harrison, and Medlock)

Assigned to the Government Operations and Fiscal Policy (GOFP) Committee

A RESOLUTION CONCERNING PUBLIC SAFETY FACILITIES SURCHARGE for the purpose of approving a partial waiver of the public safety facilities surcharge for all residential units of the mixed-use Homes at Oxon, a project of the Homes at Oxon Hill Limited Partnership ("Homes at Oxon Hill").

Fiscal Summary

Direct Impact:

Expenditures: None.

Revenues: Decreased revenue of *at least* \$268,852.¹

Indirect Impact:

Potentially favorable.

Legislative Summary

CR-104-2022,² proposed by Council Chair Hawkins at the request of the County Executive, was introduced by Council Members Hawkins, Harrison, and Medlock on September 6, 2022, and referred to the Government Operations and Fiscal Policy (GOFP) Committee.

The Resolution would waive 60%³ the Public Safety Facilities surcharge for all residential units of the mixed-used Homes at Oxon Hill. The project will provide 163 senior households, including at least 147 units for senior households earning 60% or less of the Area Median Income (AMI). This amounts to \$268,852.20 in foregone income for public safety and behavioral health.

Current Law/Background

Chapter 594 of the Laws of Maryland 2005 amended the Public Local Laws of Prince George’s County to authorize the County Council to impose a public safety surcharge fee on new residential construction for which a preliminary plan has been approved on or after 1 July 2005 under Section 10-192.11 of the County Code.⁴ The original State legislation⁵ was enacted by the County under CR-54-2006 for Fiscal Year 2007. By Chapter 567 of the Laws of Maryland 2021, the name of the surcharge was changed to the “Public Safety *and Behavioral Health* Surcharge” and the permissible uses of funds collected were expanded to include the operation of behavioral health programs and construction or rehabilitation of behavioral health program facilities in the County.⁶

The surcharge is assessed on a “single-family detached dwelling, town house, or dwelling unit for any other building containing more than a single dwelling unit” in the amount of \$6,000 or \$2,000 if the construction project is in 1) the Transportation Service Area 1; *and* 2) an area included in a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site and complies with the requirements of any sector plan, master plan, or overlay zone.⁷ Revenue collected under the surcharge is intended to supplement rather than replace any existing funding

¹ There is inconsistency in the Resolution, in that it seems to justify a 60% waiver in the ‘Whereas’ clauses, but in the ‘Resolved’ clauses appears to waive the full surcharge. See ‘Substance Concerns’ box on page 4 of this memorandum.

² [CR-104-2022](#).

³ See footnote 1.

⁴ Prince George’s County Code, [Fee Schedule](#).

⁵ Maryland General Assembly, [House Bill 1129 \(2005\)](#).

⁶ [Chapter 567 of the Laws of Maryland 2021](#)

⁷ Prince George’s County Code, Subdivision 4. – [Public Safety Surcharge](#).

and can therefore be used only on one-time projects, purchases, or payments rather than on any recurring debt.⁸

Revenue collected is distributed by the County’s police, fire, and emergency medical services in the following ways as listed under Sec. 10-192.11(e)(2):

- (A) “At least twenty five percent (25%) of the revenue collected from a surcharge imposed on construction that is located in a municipal corporation that maintains a police department shall be distributed to that municipal corporation’s police department.
- (B) The revenue collected from a surcharge imposed on construction that is located in the City of Laurel shall be distributed as follows:
 - (i) Fifty percent (50%) to Prince George’s County fire and rescue services; and
 - (ii) Fifty percent (50%) to the Laurel police department for the construction or rehabilitation of public safety facilities or the purchase of equipment or communications devices used in connection with law enforcement.”⁹

The following housing categories are exempt from the Public Safety Surcharge Fee:¹⁰

- Single-family detached dwelling to be built or subcontracted by an individual owner in a minor subdivision and that is intended to be used as the owner’s personal residence

Furthermore, Section 4-352 on the County Code authorizes the County Council to adjust the surcharge each year in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor from the previous fiscal year.¹¹ CR-079-2022 established the public safety surcharge for Fiscal Year 2023 as \$2,977 for Construction in the Developed Tier and \$8,925 for all other buildings.

Section 10-192.11 also authorizes the governing body of the County to waive any surcharge imposed under Subsection (b)(1)(B).

Resource Personnel

- Jose C. Sousa, Assistant Deputy Chief Administrative Officer, Economic Development.

Discussion/Policy Analysis

Development impact fees are a way for local governments to increase revenue to mitigate the cost of new or expanded facilities and services needed as a result of an increase in population from new development in an area. Often considered as a de-facto tax, development impact fees, in their role

⁸ For example: communication devices, fire fighting, or emergency services activities, including protective body armor, surveillance devices, weapons, ladder trucks, ambulances, police cruisers, and rescue vehicles.

⁹ Prince George’s County Code, Subdivision 4. – [Public Safety Surcharge](#).

¹⁰ Ibid.

¹¹ Prince George’s County Code, [Section 4-352](#).

of offsetting the impact of constructing or expanding facilities, can stave off County-wide tax increases by putting the onus on the development responsible for the increase in demand. Additionally, development impact fees can be used to discourage suburban sprawl. Overall, it is cheaper for local governments to provide services to more compact communities as, for example, sewage and electric lines are shorter and travel times for police and fire departments is decreased in these areas. Consequently, charging a higher impact fee on new construction in sprawling neighborhoods to account for the greater impact on government services will discourage this type of construction for more compact, transit-oriented localities.

Strategically waiving development impact fees, along with other strategies, may help encourage certain types of development. Because this project aims to protect and promote senior housing for those earning 60% or less of the Area Median Income (AMI) along transit-oriented corridors, waiving the fees would help in keeping overall rents and prices down in the area.

Revenue collected is intended to supplement rather than replace any existing funding and can be used only on one-time projects or payments rather than on any recurring payment for operating expenses, such as salaries and supplies.

Substance Concerns with CR-104-2022

Lines 21 to the end (no lines) of page two of the Resolution, as well as the Agenda Item Summary (AIS), note a 60% waiver; however, lines 8-13 of the third page of the Resolution note a 100% surcharge waiver.

This discrepancy amounts to either a total waiver amount of \$448,087 (100%) or \$268,852.20 (60%)

Staff notes the following technical concerns with the Resolution:

- Line numbers are missing in the first page and the end of the second page.
- The name of the Surcharge is “Public Safety and Behavioral Health Surcharge” per the above-referenced 2021 State law.

In addition to the \$268,852.20 (60%) surcharge waver supporting public safety and behavioral health in the County, the project also received a Payment in Lieu of Taxes (PILOT) Agreement (CR-039-2021) for \$8,845,020.17 and a HOME Loan from the FY 2021 Annual Action Plan (CR-036-2021) for \$1,500,000. Out of the total estimated project cost of \$41.2 million¹², the project received \$10.6 million, or 25.78%, of the total from the County.

¹² [CR-039-2021, page 7.](#)

Total aid received from the County:

Surcharge Waiver:	\$ 268,852.20
PILOT Agreement:	\$ 8,845,020.17
HOME Loan:	\$ 1,500,000
TOTAL Received:	\$10,613,872.37

Total Estimated Project Cost:	\$41,155,812
County Share of Total Cost:	25.78%

Fiscal Impact

Direct Impact

Adoption of CR-104-2022 would waive 60% of the Public Safety Facilities Surcharge for all 163 units at the “Homes at Oxon Hill” development. The FY 2022 per unit rate, when the Surcharge was paid, was \$2,749. Therefore, the per unit waiver, at 60%, is \$1,649.40, with a total adverse fiscal impact of \$268,852.20.

Total surcharge to be collected at 100% rate:	\$2,749	* 163 units = \$448,087
Total surcharge collected at 40% rate:	\$1,099.60	* 163 units = \$179,234.80
Total Project Waiver (60%):	\$1,649.40	* 163 units = \$268,852.20

As noted above, however, the Resolution *may* waive 100% of the Surcharge, which would amount to an adverse fiscal impact of \$448,087.

Because the surcharge has already been paid by the developer in FY 2022, this Resolution would essentially authorize a refund from the County.

Indirect Impact

Adoption of CR-104-2022 could have a positive indirect fiscal impact if the resulting development serves to protect and promote affordable housing units for seniors.

Appropriated in the Current Fiscal Year Budget

No.

Effective Date of Proposed Legislation

The proposed Resolution shall be effective on the date of adoption.

If you require additional information, or have questions about this fiscal impact statement, please email me.