



## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

**APPROVED**

Tuesday, October 25, 2022

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland at 9:02 a.m. on Tuesday, October 25, 2022.

### PRESENT

Councilmember Gabe Alborno, President	Councilmember Evan Glass, Vice President
Councilmember Andrew Friedson	Councilmember Tom Hucker
Councilmember Will Jawando	Councilmember Sidney Katz
Councilmember Nancy Navarro	Councilmember Craig Rice
Councilmember Hans Riemer	

The President in the Chair.

### PRESENTATIONS

- A. Proclamation was presented by Mr. Friedson recognizing the 125<sup>th</sup> Anniversary of Nature Forward.
- B. Proclamation was presented by Council President Alborno, recognizing the 50<sup>th</sup> Anniversary of the U.S. Consumer Product Safety Commission.

The Council recessed at 9:24 a.m. and reconvened at 9:33 a.m.

### GENERAL BUSINESS

#### A. **Announcements** - Agenda and Calendar Changes

Ms. Paradise, Deputy Clerk, announced two additions to the Consent Calendar, adding for introduction an amendment to the FY23-28 Capital Improvements Program (CIP) and Special Appropriation to the County Government's FY23 Capital Budget, Department of Transportation - \$1,468,000 for Farm Women's Market Parking Garage project; and an

amendment to the FY23-28 CIP and Special Appropriation to the County Government's FY23 Capital Budget, Maryland-National Capital Park and Planning Commission, Department of Parks - \$9,432,000 for Bethesda Lots-10-24; and that action is scheduled for November 1, 2022, on the Supplemental Appropriation to the County Government's FY23 Capital Budget and Amendment to the FY23-28 CIP, Montgomery County Public Schools (MCPS) - \$750,000 for Technology Modernization.

(1) B. **Acknowledgement** - [Receipt of Petitions](#)

Acknowledged receipt of a petition from residents of Montgomery County opposing **Zoning Text Amendment (ZTA) 22-01**, Antenna on Existing Structure - Use Standards.

C. **Action** - Approval of Minutes

Approved the minutes of September 13, 22, and October 4, 2022, and the closed session minutes of September 13, 20, and 22, 2022, without objection. Mr. Rice and Mr. Jawando were temporarily absent.

(2) **DISTRICT COUNCIL SESSION**

A. [Thrive 2050 - Action to Adopt](#)

Participating in the discussion was Ms. Stern, Acting Director, Montgomery County Planning Department.

Mr. Albornoz expressed thanks to Ms. Dunn, Senior Legislative Analyst, and everyone who worked on the Thrive 2050 Plan.

Adopted **Resolution 19-1413**, approving Thrive 2050.

Mr. Riemer made the motion, which carried unanimously.

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
IN LEGISLATIVE SESSION - Day #30**

(3) **Call of Bills for Final Reading:**

A. [Bill 17-21, Police - Community Informed Police Training](#)

Mr. Katz, Chair of the Public Safety (PS) Committee, summarized the purpose of the Bill and the recommendations of the Committee.

Mr. Jawando, Lead Sponsor of the Bill, commented on the impact of **Bill 17-21** and steps being taken to enhance education and training of police officers. Senior Legislative Attorney Wellons reviewed amendments approved by the PS Committee during its worksessions, as contained in the staff report.

Enacted draft #4 of **Bill 17-21**, as shown at the end of these minutes.

The PS Committee made the motion and the Bill was enacted by a roll call vote:

YEAS: Katz, Jawando, Riemer, Hucker, Navarro, Rice, Friedson, Glass, Albornoz.

B. [Bill 23-22, Personnel and Human Resources - Amount of Pension - Group G Members](#)

Mr. Friedson, member of the Government Operations and Fiscal Policy (GO) Committee, reviewed the purpose of the Bill and the Committee's recommendation, as contained in the staff report.

Enacted draft #2 of **Bill 23-22**, as shown at the end of these minutes.

The GO Committee made the motion and the Bill was enacted by a roll call vote:

YEAS: Katz, Jawando, Riemer, Hucker, Navarro, Rice, Friedson, Glass, Albornoz.

C. [Bill 24-22, Streets and Roads](#)

Participating in the discussion were Dr. Orlin, Senior Analyst; and Ms. Ndou, Legislative Attorney.

Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, reviewed the purpose of the subject Bill, noting the goal is to design roads to operate safely and efficiently. Dr. Orlin reviewed amendments to **Bill 24-22** recommended by the T&E Committee, as contained in the staff report.

Approved without objection the following corrections to the Bill as shown on page circles 1-61 of the staff report:

On line 609, Section 49-28(a) the word "Complete" should be lower case;

On line 626, Section 49-29(a), delete the words "must be constructed";

On line 666, Section 49-30(a), replace the word “chokers” with “curb extensions”;

On line 825, Section 49-31(c)(6), change the phrase “cross-country” to “cross-county”;

On line 1060, Section 49-32(f)(1), change the word “minimum” to “maximum”;

On line 1133-1137, Section 49-33(d)(1)(D), edit as follows:

(D) any sidewalk if the site is located in an environmentally sensitive area with limits on the amount of impervious surface allowed if the Planning Board and Department of Transportation find that a sidewalk is not expected to be necessary for pedestrian movement; or....

Enacted draft #2 of **Bill 24-22**, as amended and shown at the end of these minutes.

The T&E Committee made the motion and the Bill was enacted by a roll call vote:

YEAS: Katz, Jawando, Riemer, Hucker, Navarro, Rice, Friedson, Glass, Albornoz.

(4) **DISTRICT COUNCIL SESSION**

A. Worksession/Action - [Zoning Text Amendment \(ZTA\) 22-10, Streets and Roads](#)

Mr. Hucker reviewed the purpose of the subject ZTA, which is to implement **Bill 24-22**, Streets and Roads. Ms. Ndou reviewed the three amendments approved by the T&E Committee during its worksession.

Enacted **Ordinance 19-39**, approving draft #2 of **ZTA 22-10**.

The T&E Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Katz, Jawando, Riemer, Hucker, Navarro, Rice, Friedson, Glass, Albornoz.

B. Worksession/Action - [Subdivision Regulation Amendment \(SRA\) 22-01](#),

Streets and Roads

Ms. Ndou reviewed the recommendations of the T&E Committee, as contained in the staff report.

Enacted **Ordinance 19-40**, approving draft #2 of **SRA 22-01**.

The T&E Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Katz, Jawando, Riemer, Hucker, Navarro, Rice, Friedson, Glass, Albornoz.

C. Action - **Zoning Text Amendment (ZTA) 22-01, Antenna on Existing Structure - Use Standards**

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, noted that the work pertaining to telecommunication structures began in 2016, and reviewed the purpose of this ZTA.

Mr. Hucker recused himself from voting on the ZTA.

Enacted **Ordinance 19-41**, approving draft #2 of **ZTA 22-01**.

The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Jawando, Riemer, Navarro, Rice, Friedson, Glass, Albornoz

NAYS: Katz

ABSTAIN: Hucker

(5) **INTERVIEW** - Deputy Director for Results in the Office of Management and Budget

Interviewed Mr. Joshua Watters, candidate for Deputy Director for Results in the Office of Management and Budget.

(6) **INTERVIEWS** - Policing Advisory Commission

Interviewed candidates for the Policing Advisory Commission: Kristy Daphnis, Christina DeLane, and Rodolfo (Rudy) Lunasin.

(7) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Friedson made the motion, which carried without objection.

- A. Introduced a Supplemental Appropriation to the County Government's FY23 Capital Budget and Amendment to the FY23-28 Capital Improvements Program (CIP), \$9,500,000 Bus Rapid Transit: US 29 Phase 2 (Source of Funds: Development Impact Tax, State Aid). A public hearing is scheduled for November 15, 2022, at 1:30 p.m.
- B. Introduced Special Appropriation #23-29 to the County Government's FY23 Operating Budget, Montgomery County Department of Health and Human Services - Hospital Response, \$10,000,000 (Source of Funds: Undesignated Reserves)  
Public Hearing/Action is scheduled for November 15, 2022, at 1:30 p.m.
- C. Introduced a Resolution to amend Council Rules of Procedure  
A public hearing is scheduled for November 1, 2022, at 1:30 p.m.
- D. Adopted **Resolution 19-1414**, confirming the County Executive's appointments to the Alcohol and Other Drug Abuse Advisory Panel: Isabelle Raquin, Malliger Iyer, Ashley Tyler.
- E. Adopted **Resolution 19-1415**, confirming the County Executive's appointment to the Citizens Review Panel for Children: Shaoli Katana.
- F. Adopted **Resolution 19-1416**, confirming the County Executive's appointment to the Local Management Board for Children, Youth, and Families (Collaboration Council): Damon Monteleone.
- G. Adopted **Resolution 19-1417**, confirming the County Executive's appointments to the Rustic Roads Advisory Committee: Elena Shuvalov, Kamran Sadeghi.
- H. Adopted **Resolution 19-1418**, confirming the County Executive's appointment to the Commission for Women: Lindsey Turnbull
- I. Adopted **Resolution 19-1419**, confirming the County Executive's appointment to the Workforce Development Board: Susan Marks
- J. Adopted **Resolution 19-1420**, confirming the County Executive's appointment of the County Attorney: John Markovs.
- K. Approved the appointment of Special Counsel: Baker, Donelson, Bearman, Caldwell & Berkowitz, PC to assist the Office of the County Attorney in

pursuing claims related to the development, design, and construction of the Wheaton Office Building.

- L. Approved the appointment of Special Counsel: Grant & Eisenhofer, PA to assist the Office of the County Attorney in pursuing claims involving Polychlorinated Biphenyls (PCBs) and Per- and Polyfluoroalkyl Substances (PFAS) contamination.
- M. Adopted **Resolution 19-1421**, approving an extension until April 30, 2023, of the appointment of Acting Director of the Department of Environmental Protection: Adriana Hochberg
- N. Adopted **Resolution 19-1422**, an authorization of Optional Method for Condemnation of Land Clarksburg Road at Snowden Farm Parkway, CIP Project No. 508000.
- O. Adopted **Resolution 19-1423**, 2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems.
- P. Received and Released the Office of Legislative Oversight Report 2022-12: Analysis of dataMontgomery Traffic Violations Dataset
- Q. **Introduced** an amendment to the FY23-28 Capital Improvements Program and Special Appropriation #23-55 to the County Government's FY23 Capital Budget, Department of Transportation - Farm Women's Market Parking Garage Project (No. 502316), \$1,468,000 (Source of Funds: GO Bonds and Intergovernmental). A public hearing is scheduled for November 15, 2022, at 1:30 p.m.
- R. **Introduced** an amendment to the FY23-28 Capital Improvements Program and Special Appropriation #23-52 and Amendment to the County Government's FY23 Capital Budget, Maryland-National Capital Park and Planning Commission, Department of Parks, Bethesda Lots 10-24 Parks (No. P872302), \$9,432,000 (Source of Funds: Bethesda Park Impact Payment, State Aid, Intergovernmental). A public hearing is scheduled for November 15, 2022, at 1:30 p.m.

The Council recessed at 12:19 p.m. and reconvened at 1:10 p.m.

## PRESENTATION

- A. Proclamation presented by Councilmember Navarro recognizing Breast Cancer Awareness Month.

The Council recessed at 1:19 p.m. and reconvened at 1:31 p.m.

- (8) **PUBLIC HEARING** - Supplemental Appropriation to the County Government's FY23 Capital Budget and Amendment to the FY23-28 Capital Improvements Program (CIP) - \$750,000 for Montgomery County Public Schools (MCPS) Technology Modernization

The public hearing was conducted. Additional material for the Council's consideration must have been submitted by close of business on October 25, 2022. Action is tentatively scheduled for November 1, 2022.

- (9) **PUBLIC HEARING/ACTION** - Special Appropriation #23-27 to the County Government's FY23 Operating Budget, Montgomery County Government Department of Health and Human Services - Food Staples Program, \$8,150,000 (Source of Funds: Undesignated Reserves)

The public hearing was conducted and the record closed.

Participating in the discussion were Ms. McGuire, Senior Legislative Analyst; Ms. Clemons Johnson, Legislative Analyst; Dr. Stoddard, Assistant Chief Administrative Officer; and Mr. Rundell, Management and Budget, Department of Health and Human Services (DHHS).

Dr. Stoddard stated that So What Else was not promised funding for their support of food security during the pandemic but confirmed that the organization submitted a proposal. He reiterated that no solicitation request or commitment was made by the Executive branch.

Mr. Rice, Mr. Jawando, and Ms. Navarro stated their concerns for selecting an individual organization for funding, as this is not a standard practice for funding appropriations.

Mr. Navarro and Mr. Katz suggested that DHHS create a better process to formalize communication in these situations.

Mr. Albornoz requested a meeting with the organization and Executive branch staff to determine if there are other methods to assist this organization with funding and to better understand the communication between the organization and executive branch.

Mr. Glass withdrew his motion to appropriate \$130,000 in funding to So What Else, Inc.



Adopted **Resolution 19-1424**, approving the subject special appropriation. Mr. Rice made the motion, which carried without objection.

(10) **INTERVIEWS - [Montgomery County Planning Board Temporary Acting Appointments](#)**

Interviewed candidates for temporary acting Montgomery County Planning Board vacancies: Raj Barr-Kuma, Cherri Branson, Francoise Carrier, Norman Dreyfuss, Barbara Goldberg Goldman, David Hill, William Kirwin, Roberto Pinero, Amy Presley, Vincent Napoleon, and Jeff Zyontz.

(11) **ACTION - [Amendments to the 2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan - Deferred Category Change Requests - Transquest LLC, Travilah Oak LLC, Arora, Kapoor, Ainane](#)**

Mr. Levchenko, Senior Legislative Analyst, participated in the discussion.

Adopted **Resolution 19-1425** approving the subject amendments to the 2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan. Mr. Hucker made the motion, which carried without objection.

(12) **ACTION - [Amendment to the 2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan - Category Change Request \(Mohebbi\)](#)**

Mr. Levchenko participated in the discussion.

Adopted **Resolution 19-1426** approving the subject amendments to the 2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan. Mr. Glass made the motion, which carried without objection.

**Motion to Close**

Agreed to meet in a closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, pursuant to Maryland Code, General Provisions Article §3-305(b)(1)(i). Topic is appointment of Planning Board members.

Mr. Riemer made the motion, which carried without objection.

The Council adjourned the open session at 4:09 p.m. and reconvened in the Capital Crescent Trail Conference Room in closed session at 4:17 p.m.

The meeting adjourned at 6:08 p.m.

**Report of Closed Session of October 25, 2022**

In compliance with Section 3-306(c)(2) General Provisions Article, Maryland Code, the following is a report of the County Council's closed session of October 25, 2022. The Council convened in closed session at 4:17 p.m. in the Capital Crescent Trail Conference Room pursuant to Maryland Code, General Provisions Article §3-305(b)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topic was the appointment of Planning Board members.

The following persons were present: Councilmembers Alborno, Friedson, Glass, Huckler, Jawando, Katz, Navarro, Riemer and Rice; Chiefs of Staff Carranza, Ikheloa, Ledner, Murillo, Nurmi, Thorne, Whittaker; Ms. Michaelson, Council Executive Director; Mr. Howard, Deputy Director; Ms. Wellons, Senior Legislative Attorney; Ms. Healy, Director, Office of Legislative Information; Ms. Rupp, Clerk of the Council; and Ms. Tenenbaum, Deputy Clerk.

**Action:** None.

The meeting adjourned at 6:08 p.m.

This is a correct copy of Council action:

  
\_\_\_\_\_  
Judy Rupp  
Clerk of the Council

Bill No. 17-21  
Concerning: Police – Community  
Informed Police Training  
Revised: 10/20/2022 Draft No. 4  
Introduced: May 18, 2021  
Enacted: October 25, 2022  
Executive: \_\_\_\_\_  
Effective: 180 days after becoming  
law  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Jawando  
Co-Sponsor: Councilmember Riemer

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**AN ACT** to:

- (1) require the Police Department to collaborate with local educational partners regarding police cadet recruitment and police training;
- (2) provide for the continuing education of police officers; and
- (3) generally amend laws regarding policing, police recruitment, and police training.

By adding

Montgomery County Code  
Chapter 35, Police  
Section 35-6B

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

<b>Boldface</b>	<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>

1           **Sec. 1. Section 35-6B is added as follows:**

2           **35-6B. Community Informed Police Training.**

3           (a)    Definitions. For purposes of this Section, the following terms have the  
4                    meanings indicated.

5                    Active listening means a process by which parties reach a peaceful  
6                    resolution to a dispute, including through the skills of:

7                    (1)    managing stress quickly while remaining alert and calm;

8                    (2)    controlling emotions and behavior;

9                    (3)    paying attention to the words and feelings expressed by others; and

10                   (4)    being aware of and respecting differences.

11                   Cadet or police cadet means a uniformed civilian employee of the  
12                   Department who participates in the Cadet Program established by the  
13                   Department for college students.

14                   Civic engagement means participation by community members in social  
15                   and political processes designed to communicate ideas, values, and  
16                   beliefs, and to promote legal, political, or social change.

17                   Community policing means a policing strategy to develop trusting  
18                   relationships with the community, and to work in partnership with the  
19                   community to address crime, public safety, and quality of life issues.

20                   Health means a state of complete physical, mental, and social well-being  
21                   and not merely the absence of disease or infirmity.

22                   Police academy means the entry-level police training academy required  
23                   by the Department for all prospective police officers.

24                   Policing history means a social, political, and historical understanding of  
25                   why and how policing developed in the United States, including an  
26                   examination of the transitional eras of policing (Political Era, Reform/

Professional Era, and Community Era) and the structural changes that occurred under each of those eras since the mid nineteenth century.

Racial equity has the meaning stated in Section 2-64A.

Social justice has the meaning stated in Section 2-64A.

Wellness means a positive approach to living.

(b) [Recruitment programs] Cadet program. The Department must collaborate and partner with local educational institutions to:

(1) expand the recruitment of police cadets who reflect the diversity of the County;

(2) sponsor communication sessions with prospective cadets and community members; and

(3) develop internship programs for prospective cadets.

(c) Police academy = [[prerequisite]] required program regarding community services and social justice.

(1) Prior to [[acceptance in]] the commencement of field training, a member of the police academy[[, an applicant]] must complete [[an initial]] a program regarding community services and social justice.

(2) The program must consist of 30 [[credit]] hours or their equivalent.

(3) The program must be designed, in collaboration and partnership with one or more local educational institutions, to develop competency in the topics of:

(A) racial equity and social justice;

(B) health and wellness;

(C) community policing;

(D) policing history;

(E) active listening and conflict resolution; and

- 54                    (F) civic engagement.
- 55            (4) In selecting an applicant for admission into the police academy,  
 56                    the Department must consider:
- 57                    (A) the applicant’s performance in the program under this  
 58                    subsection; and
- 59                    (B) the applicant’s performance in any implicit bias test  
 60                    required by the Maryland Police Training and Standards  
 61                    Commission.
- 62            (d) Continuing Education. The Department must collaborate and partner  
 63                    with local educational institutions and national law enforcement  
 64                    professional organizations to provide continuing education, as  
 65                    demonstrated by the awarding of Continuing Education Units (CEU’s) or  
 66                    similar credentialing indicating content mastery:
- 67                    (1) to all County police officers regarding:
- 68                    (A) socially just policing and community engagement; and
- 69                    (B) emerging topics in law enforcement, including  
 70                    cybersecurity, human trafficking, and proactive community  
 71                    engagement[.];
- 72                    (2) to executive-level police officers regarding leadership and  
 73                    management challenges in socially just policing; and
- 74                    (3) to new police sergeants regarding supervisory skills, with a focus  
 75                    on community policing, mentorship, and ethical leadership.
- 76            (e) State requirements. The training provided under this Section must  
 77                    incorporate to the extent practicable, and must comply with, the  
 78                    requirements of the Public Safety Article of the Maryland Code,  
 79                    including the Maryland Use of Force Statute.

80           **Sec. 2. Short Title.** This Act may be cited as the Community Informed Police  
81 Training Act.

82           **Sec. 3. Effective Date.** This Act must take effect on the 181<sup>st</sup> day after it  
83 becomes law.

*Approved:*

s/

10/26/2022

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Gabriel Albornoz, President, County Council

Date

*Approved:*

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Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

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Judy Rupp, Clerk of the Council

Date



Bill No. 23-22  
Concerning: Personnel and Human  
Resources – Pension Amount – Group G  
Revised: 10/20/2022 Draft No. 2  
Introduced: July 26, 2022  
Enacted: October 25, 2022  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) increase the pension amount for Group G members by applying 5 percent of average final earnings for each year of credited service received for accumulated sick leave subject to a certain reduction amount; and
- (2) generally revise County law regarding pension at retirement.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-42

<b>Boldface</b>	<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. Section 33-42 is amended as follows:**

2   **33-42. Amount of pension at normal retirement date or early retirement date.**

3   \*       \*       \*

4       (b)   *Amount of pension at normal retirement date.*

5   \*       \*       \*

6           (2)   Pension amount for an Integrated Retirement Plan member.

7   \*       \*       \*

8                           (E)   The County must compute the annual pension of a Group G  
9   member in the integrated retirement plan who retires on a  
10   normal retirement as follows:

11   (i)   from the date of retirement to the month that the  
12   member reaches Social Security retirement age, the  
13   following percentages of average final earnings  
14   apply:

15   (a)   2 ½ percent, for each of the first 20 years of  
16   credited service;

17   (b)   2 percent, for each year of credited service of  
18   more than 20 years to a maximum of 31 years,  
19   plus sick leave credits; and;

20   (c)   5 percent for each year of credited service  
21   received for accumulated sick leave; and

22                   (d) 0 percent for years after year 31 (except sick  
23                   leave credits referred to in subclause [(b)] (c));  
24                   and

25                   (ii) from the month the member reaches Social Security  
26                   retirement age, the percentages specified in clause (i)  
27                   must be reduced, respectively, by the following  
28                   percentages of average final earnings for the portion  
29                   of any amount equal to or less than the Social  
30                   Security maximum covered compensation in effect  
31                   on the date of retirement:

32                   (a) 0.78125 percent, for each of the first 20 years  
33                   of credited service; [and]

34                   (b) 0.625 percent for each year of credited service  
35                   of more than 20 years, to a maximum of 31  
36                   years, plus sick leave credits; and

37                   (c) 1.5625 percent, for each year of credited  
38                   service received for accumulated sick leave.

39   \*           \*           \*

40                   **Sec. 2. Required study.** The Board of Investment Trustees must include  
41                   within an actuarial study or experience study of the Employees' Retirement System  
42                   data regarding the effects of this Act.

*Approved:*

<u>s/</u>	<u>10/26/2022</u>
Gabriel Albornoz, President, County Council	Date

*Approved:*

_____	_____
Marc Elrich, County Executive	Date

*This is a correct copy of Council action.*

_____	_____
Judy Rupp, Clerk of the Council	Date

Bill No. Bill 24-22  
Concerning: Streets and Roads  
Revised: 10/25/2022 Draft No. 3  
Introduced: July 26, 2022  
Enacted: October 25, 2022  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) amend Chapter 49 to incorporate complete streets principles into the design and construction of roads; and,
- (2) generally amend Chapter 49 to modernize the street and road standards.

By amending

Montgomery County Code

Chapter 49, Streets and Roads

Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78

<b>Boldface</b>	<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 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11,**  
2 **49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23,**  
3 **49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36,**  
4 **49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77**  
5 **and 49-78 are amended as follows:**

6                                 **ARTICLE 1. IN GENERAL.**

7 **Sec. 49-1. Compliance with standards; regulations; penalty for violations.**

8           (a) A public road, bridge, sidewalk, or bikeway must not be constructed,  
9 reconstructed, repaired, graded, improved or maintained by any person  
10 unless the construction, reconstruction, repair, improvement, grading or  
11 maintenance fully complies with this Chapter and any regulations issued  
12 under it.

13                                     \*           \*           \*

14 **Sec. 49-2. Resolving doubt as to location of County roads.**

15           (a) Whenever any doubt exists as to the proper location or width of a County  
16 road, the Director of Transportation may cause the road to be surveyed  
17 and a description and plat made of it and recorded [or filed] in the County  
18 land records. [This description and plat must be treated as correct by the  
19 County and in the State courts until shown to be incorrect.]

20                                     \*           \*           \*

21 **Sec. 49-3. Authority to classify road repairs.**

22           The Director of Transportation may decide whether a [given] road repair [job]  
23 should be classified as maintenance or construction under this Chapter.

24 **Sec. 49-4. Public-private participation.**

25           The County Executive[, on behalf of the County,] may contract with any  
26 person[,] who is [building a real estate development or subdivision] developing land  
27 in the County[,] to participate in the cost of any [street] road, including any sidewalk,

28 bikeway, gutter, curb or drainage construction, landscaping, traffic control device,  
29 bikeshare station, electric vehicle charging station, or placement of utilities, conduits,  
30 or other amenities in a [street or] road dedicated to public use.

31 **Sec. 49-5. Right to drain dedicated roads without liability to abutting owners.**

32 If any road is dedicated to the use of the public by a private grant, the grant must  
33 include the right [at all times] to properly drain the road, including a grant to the County  
34 of any necessary easements, without liability of the County to any abutting owner for  
35 any resulting injury.

36 **Sec. 49-6. Roads used for 20 years may be declared public highways.**

37 [(a)] Whenever any road has been used by the public for 20 or more years,  
38 though the road may never have been condemned or granted as a public  
39 [highway] road and regardless of whether the road termini are public, the  
40 County Executive may by Executive order published in the County  
41 Register declare the road to be [a] public [highway].

42 [(b)] The public right-of-way of a road declared as a public highway under  
43 subsection (a) must include permanent maintenance easements which  
44 extend 10 feet beyond each pavement edge.]

45 **Sec. 49-7. Authority of special taxing districts to regulate streets and roads.**

46 [(a)] Any special taxing district which has the authority to pave and maintain  
47 streets and roads may adopt and amend reasonable regulations under  
48 Method (2) governing the construction, maintenance, improvement,  
49 grading, and repairing of the roads and streets in the district, including  
50 those dedicated for public use.

51 [(b)] In adopting regulations, the special taxing district may, by resolution,  
52 incorporate any similar County regulation.]

53 \* \* \*

54 **Sec. 49-9. Removal of items that obstruct the vision of motorists on public**  
55 **highways or interfere with the use of public rights-of-way.**

56 (a) Notice to owner of property. If the Director of Transportation finds that any  
57 tree, bush, vine, undergrowth, or other obstruction, except a building or  
58 similar structure affixed to the ground, on private property poses a threat to  
59 public safety by obstructing the vision of operators of vehicles traveling on  
60 any public [street,] road[, or highway,] interfering with the public rights-of-  
61 way as a traffic hazard, limiting access by Fire and Rescue Service vehicles,  
62 or restricting the use by pedestrians or bicyclists of the public rights-of-way,  
63 the Director promptly must serve on the owner, agent, lessee or any other  
64 person supervising the property a written notice that:

65 \* \* \*

66 **Sec. 49-10. Obstruction of public rights-of-way.**

67 Except as provided in Section 49-11, in the public right-of-way, a person must  
68 not:

69 (a) place, maintain, use, permit, allow, or exercise control over, any object or  
70 structure [in the public right-of-way];

71 [(b) allow any object or structure owned by the person to occupy, obstruct, or  
72 encroach upon the public right-of-way;]

73 [(c)](b) perform any reconstruction or maintenance work; or

74 [(d)](c) allow the erection or placement of any structure, fence, post, rock, or  
75 other object [in the public right-of-way], except:

76 (1) [mail boxes] mailboxes mounted on a support that will bend or  
77 break away on impact by a vehicle;

78 (2) individual residential newspaper boxes mounted on a support that  
79 will bend or break away on impact by a vehicle;

80 (3) street trees placed and maintained under Section 49-33(j);



- 81 (4) ground cover placed and maintained under Section 49-33(k);
- 82 (5) a temporary, removable obstruction or occupation of a right-of-
- 83 way installed under a permit issued under Section 49-11; or
- 84 (6) as otherwise permitted by law.

85 Any object placed in the public right-of-way under Section 49-10[(d)](c) must  
 86 not [unreasonably] impede use of a sidewalk or other right-of-way by pedestrians or  
 87 persons in wheelchairs, or impede or endanger automobiles or other vehicles.

88 **Sec. 49-11. Permit to obstruct public rights-of-way.**

89 (a) *Definitions.* In this [section] Section, the following terms have the  
 90 meanings indicated.

91 *Public* includes pedestrians, bicyclists, and transit users.

92 *Safe alternative path* means an alternate [walkway or shared use path]  
 93 sidewalk or sidepath that:

- 94 (A) is on the same side of the street as a temporary closure; and
- 95 (B) provides safe access and passage to pedestrians.

96 *Temporary closure* means a temporary obstruction, blockage, or  
 97 occupation of a right-of-way under a permit issued by the Director of  
 98 Permitting Services under this Section.

99 (b) [Notwithstanding Section 49-10, and subject] Subject to subsections (c)  
 100 and (d) of this Section, the Director of Permitting Services may issue a  
 101 permit to:

- 102 (1) reconstruct or repair a sidewalk, [shared use path] sidepath,  
 103 driveway, curb, or other structure;
- 104 (2) repair, locate, or replace underground utilities or infrastructure  
 105 under a sidewalk or [shared use path] sidepath;
- 106 (3) install a temporary, removable obstruction or occupation of a right-  
 107 of-way;

108 (4) close a curb lane, sidewalk, or [shared use path] sidepath in  
109 conjunction with the construction or reconstruction of an abutting  
110 structure;

111 (5) install permanent, nonstandard structures in the right-of-way that  
112 were approved by the Planning Board, the City of Rockville, or the  
113 City of Gaithersburg in a site plan as a site element of streetscape.  
114 Streetscape [includes] means street furnishings[,] and fixtures [and  
115 elements in connection with] used by the public [use of] in the  
116 right-of-way but does not include [enclosed] structures [or vaults]  
117 or improvements for private use. The permit applicant must  
118 execute a declaration of covenants that runs with the land on which  
119 [the project associated with] the streetscape [is being developed]  
120 will be installed to perpetually maintain the permitted streetscape  
121 in a good and safe condition; return the right-of-way to its  
122 condition before the permitted streetscape was installed if the  
123 nonstandard permitted streetscape is removed; and indemnify the  
124 County from any cost or liability associated with the construction,  
125 maintenance, use or removal of the nonstandard permitted  
126 streetscape; or

127 (6) install a private, non-commercial structure that is accessory to a  
128 residential use. The permittee must execute a maintenance and  
129 liability agreement that is approved by the Director of the  
130 Department of Permitting Services.

131 \* \* \*

132 (d) *Time limits for temporary closures without safe alternative paths.* Except  
133 as provided in subsections (e) and (f):

- 134 (1) a temporary closure to reconstruct or repair a sidewalk or [shared
- 135 use path] sidepath must not exceed 6 months without the provision
- 136 of a safe alternative path; and
- 137 (2) any other temporary closure must not exceed 15 days without
- 138 provision of a safe alternative path.

\* \* \*

139  
140 (f) *Short extensions for hardship.*

- 141 (1) The Director may grant one extension of a time period under
- 142 subsection (d), for no more than 15 days, on a showing [of
- 143 extreme] by the applicant of undue hardship involving significant
- 144 difficulty or expense.
- 145 (2) The Executive must adopt regulations under Method [(2)] (3) to
- 146 specify the standards a permittee must meet to demonstrate
- 147 [extreme] undue hardship involving significant difficulty or
- 148 expense.

\* \* \*

149  
150 **Sec. 49-11A. Permit to temporarily obstruct private roads.**

- 151 (a) A person must not close any portion of a private road that is an urban road
- 152 as defined in Section 49-32 without a permit from the Director of
- 153 Permitting Services.
- 154 (b) The Director of Permitting Services may issue a permit for the complete
- 155 or partial closure of a private road on a temporary basis if the closure does
- 156 not:
- 157 (1) violate Chapter 22;
- 158 (2) [unreasonably] interfere with use of the private road by persons
- 159 with disabilities;

160 (3) [unreasonably] impede or endanger the users of any building or  
161 structure adjacent to or abutting the private road; or

162 (4) adversely impact the use of connecting public roads.

163 \* \* \*

164 (d) The Director of Permitting Services may charge a fee, set by Method [3]  
165 (3) regulation, for the permit application and may include conditions in  
166 each permit that provide for the safety of any user of a building or  
167 structure adjacent to or abutting the private road, including providing for  
168 safe alternate access to and egress from any building or structure.

169 \* \* \*

170 **Sec. 49-12. Exemptions from Sections 49-10 and 49-11.**

171 (a) Subject to paragraphs (1) and (2), Sections 49-10 and 49-11 do not apply  
172 to, and no permit under those Sections is required of, any municipality,  
173 special taxing district or government agency [authorized by law] to  
174 construct streets, roads, sewers, or drainage facilities in the County over  
175 which the entity has jurisdiction. However:

176 (1) Sections 49-10 and 49-11 apply to any road that is located in a  
177 municipality and owned or maintained by the County; and

178 (2) if the County owns or maintains a right-of-way, Section 49-11  
179 applies to any temporary closure of the right-of-way [in connection  
180 with construction or reconstruction on abutting property owned by  
181 the County].

182 [(b) Sections 49-10 and 49-11 do not apply to any vehicle operated by a fire  
183 department, public utility, or first aid provider, while that vehicle is being  
184 used to provide emergency services.]

185 \* \* \*

186 **Sec. 49-14. Debris likely to injure persons, animals, or vehicles.**

187 A person must not place or leave in or on any public [highway or street] road,  
 188 any debris liable to cause injury or damage to any vehicle or personal property. Any  
 189 violation of this Section is a Class C violation.

190 \* \* \*

191 **Sec. 49-17. Accumulation of snow and ice on property prohibited.**

192 (a) *Legislative [Findings] findings.*

193 (1) During significant winter storm events, Montgomery County’s  
 194 sidewalks often become impassable and covered in piles of snow  
 195 that are pushed aside from the road as a result of County and State  
 196 snowplows. The scope of the problem is prevalent on  
 197 Montgomery County’s busiest roads, where sidewalks are often  
 198 within an arm’s reach of traffic.

199 (2) These blocked sidewalks often persist for days following the end  
 200 of a snowstorm, creating a significant pedestrian safety hazard that  
 201 often forces pedestrians to walk in a lawn with oncoming traffic.

202 (3) County law allocates the responsibility of property owners to clear  
 203 snow on a public sidewalk fronting their property within 24 hours  
 204 of the end of snowfall. However, such clearing rarely occurs due  
 205 to a variety of reasons, including the difficulty of removing the  
 206 large piles of compacted snow and ice created by plow trucks.

207 (4) The County, in its current operation, clears sidewalks in urban  
 208 districts and approximately sixty (60) miles of sidewalks with no  
 209 adjacent residential or commercial property owner outside of such  
 210 areas.

211 (5) Snow-covered and icy sidewalks adversely affect essential  
 212 workers and commuters, who often travel by foot or public

213 transportation, and must walk along high-traffic roads to get to bus  
214 stops and retail stores.

215 (6) It is in the best interest of the County to adopt fair, reasonable and  
216 equitable legislation to address safety hazards and increase  
217 walkability access on sidewalks for pedestrians during winter  
218 storms.

219 (b) (1) *Definitions.* In this Section:

220 (A) *Commercial property* means real property that either:

- 221 (i) is not designed for or intended for human habitation;
- 222 or
- 223 (ii) contains a multi-family dwelling of four or more
- 224 units.

225 (B) *Residential property* means real property containing either:

- 226 (i) a [single family] single-family dwelling; or
- 227 (ii) a [multifamily] multi-family dwelling of three or
- 228 fewer units.

229 (C) *Department* means the Department of Transportation.

230 (D) [*Non-Buffered Sidewalk*] Non-buffered sidewalk means a  
231 sidewalk along a roadway that does not contain a grass strip  
232 or other physical separation between the sidewalk and the  
233 adjacent curb or road edge.

234 (E) *Orphan [Sidewalk] sidewalk* means a sidewalk either  
235 abutting a State or County road and be located:

- 236 (i) adjacent to a vacant lot;
- 237 (ii) an overpass with no adjacent commercial or
- 238 residential property adjoined; or

239 (iii) behind a residential or commercial property that is  
240 not directly accessible from the owner's property and  
241 is separated from the sidewalk by a fence, guardrail,  
242 or change in elevation grade.

243 (2) A person is responsible for removing snow and ice on any  
244 sidewalk, sidepath, other [walkway] areas intended for public  
245 pedestrian access, [shared use path,] or parking area on or adjacent  
246 to property that the person owns, leases, or manages, [including  
247 any walkway in the public right-of-way,] to provide a pathway  
248 wide enough for safe pedestrian and wheelchair use. For purposes  
249 of this Section, commonly owned property between a single-  
250 family residential lot and a common [walkway] sidewalk or  
251 sidepath is considered part of the lot if the intervening common  
252 property includes a [walkway] sidewalk, sidepath, or driveway that  
253 serves only that lot.

254 (3) Except as provided in paragraph (5), each owner, tenant, or  
255 manager is jointly and severally responsible for clearing snow and  
256 ice from the property and complying with Section 31-26A(d).

257 (4) The requirements of this Section do not apply to:

258 (A) an unpaved [walkway] sidewalk;

259 (B) a private [walkway] sidewalk or parking area on the  
260 property of a single-family residence;

261 (C) a public [walkway] sidewalk or sidepath behind a single-  
262 family residence that is not directly accessible from the  
263 owner's property;

264 (D) a [walkway] sidewalk that:

265 (i) is at least 25 feet from vehicular traffic;

- 266 (ii) serves only pedestrian destinations that are also
- 267 accessible by another [walkway] sidewalk that this
- 268 Section requires to be cleared;
- 269 (iii) was not routinely cleared of snow and ice after
- 270 August 1999; and
- 271 (iv) is not the primary route for pedestrian access to a
- 272 winter recreational facility open to the public; or
- 273 (E) any non-buffered sidewalk or path as specified under
- 274 Section 49-17(j), regardless if the private property is
- 275 fronting or abutting the sidewalk.
- 276 (5) (A) An individual who lives in a multi-family residential
- 277 property is not responsible for removing snow and ice from
- 278 a common [walkway] sidewalk, sidepath, or parking area.
- 279 (B) A homeowners' association, as that term is used in State
- 280 law, is not responsible for removing snow and ice from a
- 281 [walkway] sidewalk or sidepath adjacent to a single-family
- 282 residential lot, if the lot owner is responsible under
- 283 paragraph (1) for removing snow and ice from that
- 284 [walkway] sidewalk or sidepath.
- 285 (c) If ice or hardpacked snow is impossible or unreasonably difficult to
- 286 remove, the person is responsible for applying sufficient sand, other
- 287 abrasives, or salt to provide safe pedestrian use.
- 288 (d) The person is responsible for removing snow and ice within 24 hours after
- 289 the end of the precipitation that caused the condition. If a snowplow
- 290 redeposits snow or ice on a sidewalk, sidepath or other [walkway] area
- 291 intended for pedestrian access after a person has complied with this



292 Section, the person is not responsible for clearing the [walkway] area  
293 until 24 hours after the snowplow redeposited the snow or ice.

294 (e) The County Executive must designate a department to enforce this  
295 Section and may designate other County employees or contractors to  
296 enforce this Section.

297 (f) The Executive may order a different deadline or conditions for  
298 removing snow and ice during or immediately after a severe or unusual  
299 storm or other public-safety condition.

300 (g) In addition to any other remedy or penalty for a violation of this  
301 Section, the County may clear the snow and ice and charge the  
302 responsible property owner for the cost, which the County may collect  
303 in the same manner as property taxes.

304 (h) *Violations.*

305 \* \* \*

306 (i) *Sidewalk [Snow Removal Plan] snow removal plan.*

307 \* \* \*

308 (j) *Sidewalk [Snow Removal] snow removal – Required.* The Executive  
309 must implement a plan and require the Department to remove or cause  
310 to be removed snow and ice accumulation from the last day of  
311 precipitation within the following designated areas:

312 \* \* \*

313 **Sec. 49-19. Conversion of overhead lines to underground locations.**

314 If the construction or improvement of any County road requires any person to  
315 relocate any overhead electric, telephone, or other overhead line or related facility in  
316 any County road right-of-way, the County Executive must, by regulation adopted  
317 under [method] Method (3), require that any affected line must be installed

318 underground if the Executive finds that underground installation is desirable after  
319 considering the following factors:

320 \* \* \*

321 Any regulation to implement this Section must require the replacement of any  
322 street light removed during the [conversion of any line to an underground location]  
323 installation of underground facilities.

324 **Sec. 49-19A. [Energy-efficient street lights.**

325 (a) *Definitions.* In this Section, the following words have the meanings  
326 indicated:

327 *Director* means the Director of the Department of Transportation.

328 *Light-emitting diode* or *LED light* means a semiconductor device that  
329 produces visible light when an electrical current is passed through it.

330 (b) When any contract to maintain street lights owned by the County in effect  
331 on January 21, 2014, expires, any later maintenance contract must be with  
332 a company that commits to install LED lights or another energy-efficient  
333 technology that the Director finds is equivalent or superior to LED lights.

334 **Sec. 49-19B] Permit exemption for the Purple Line.**

335 (a) The State of Maryland, including its agencies and divisions, is exempt  
336 from any permitting requirement in Chapters 8 (“Buildings”), 17  
337 (“Electricity”), 22 (“Fire Safety Code”), and 49 (“Streets and Roads”) for  
338 the construction of:

339 (1) any portion of the Purple Line that is located within the public  
340 right-of-way under a valid franchise agreement approved by the  
341 County Council under Section 49-21; and

342 (2) any structure related to the Purple Line owned by the State of  
343 Maryland or its agencies or divisions, including any hiker/biker  
344 trail that will be owned or maintained by the County.

345 (b) However, the State of Maryland, and its agencies, divisions, and  
 346 contractors, must obtain any permit required under Chapter 8, 17, 22, and  
 347 49 for the construction or alteration of any structure owned by the County,  
 348 except the hiker/biker trail, or by a private person or entity.

349 **ARTICLE 2. FRANCHISES.**

350 **Sec. 49-20. Franchises for use of street; procedure for granting; notice and**  
 351 **hearing.**

352 The Council [must not grant any] may approve a franchise [in relation to] for  
 353 the occupation of any [highway, avenue, street, lane, alley,] road or other right-of-way,  
 354 either on, above, or below the surface[, until all requirements of this Article have been  
 355 met] if the following requirements are met:

356 (a) *Application to be published.* The applicant must publish notice of each  
 357 application for [any] a franchise once a week for 3 successive weeks in  
 358 one or more newspapers of general circulation in the County, specifying:

- 359 (1) [the essential] a summary of terms of the proposed franchise;
- 360 (2) the compensation the County [will] may receive, [which may take  
 361 the form of] including in-kind goods and services [as well as cash  
 362 payments]; and
- 363 (3) the location, character, and extent of the use of the right-of-way.

364 (b) *Inquiry as to value.* [After the notice required by subsection (a) is  
 365 published, the] The County Executive or a designee [must] may  
 366 investigate the value of the proposed franchise and the adequacy of the  
 367 compensation proposed to be paid for it.

368 (c) *Hearing on objections.* If any taxpayer, or any property owner whose  
 369 property [right] rights may be affected by the grant of the franchise, files  
 370 an objection to the granting of the franchise in writing with the County  
 371 Executive within 10 days after the last notice required by subsection (a)

372 appears, the County Executive or a designee must hold a hearing within  
373 15 days after the objection is filed on the proposed franchise and any  
374 objections to it.

375 (d) *Recommendations of County Executive.* The County Executive must, [in  
376 each case,] after any hearings required by this Article, forward to the  
377 Council written recommendations concerning the proposed franchise,  
378 including the Executive’s findings as to the value of the proposed  
379 franchise, any response to objections which have been raised, and any  
380 other relevant issues.

381 \* \* \*

382 **Sec. 49-21. Council action.**

383 (a) [If the Council finds that granting the franchise is expedient and proper,  
384 the] The Council may grant [such] a franchise for such compensation as  
385 it, after considering the recommendations of the County Executive, finds  
386 proper, for a period not longer than 25 years. If the franchise allows the  
387 location of a permanent structure with a useful life [substantially] longer  
388 than 25 years in the County right-of-way, the initial term of the franchise  
389 may exceed 25 years.

390 (b) [At the option of the Council, the approved] The franchise may allow the  
391 [grantee] franchisee to renew the franchise, after [a fair revaluation,] the  
392 County determines the value of the renewed franchise [including the  
393 value, if any, derived from the franchise or renewals,] for one or more  
394 terms that each do not cumulatively exceed [another] 25 years.

395 (c) Every grant of any franchise must provide, by forfeiture of the grant, for  
396 compelling compliance with its terms [and to secure efficiency of public  
397 service at reasonable rates] and the maintenance of the [property] right-

398 of-way in good condition, throughout the grant. [Each grant must also  
399 specify:

- 400 (1) the mode of determining any valuation and revaluation under this
- 401 Article,
- 402 (2) the time limit to exercise the rights given, and
- 403 (3) the procedure for default for a lapse of the franchise.]

404 \* \* \*

405 **Sec. 49-22. County [Council] to retain [municipal] control.**

406 When the Council grants a franchise under this Article, the [Council]  
407 County must [not part with, but must expressly reserve, the right and duty at all times]  
408 continue to exercise full [municipal] control [and regulation in respect to all matters  
409 connected with the franchise not inconsistent with its terms] over the franchised right-  
410 of-way.

411 **Sec. 49-23. Certain private rights not affected.**

412 Nothing in this Article is intended to affect any private right, [including the right  
413 of any adjacent property owner held by law in 1910,] except as necessary to comply  
414 with this Chapter.

415 **ARTICLE 3. ROAD DESIGN AND CONSTRUCTION CODE.**

416 **Sec. 49-25. Complete streets policy and standards.**

417 This Article is intended to guide the planning, design, and construction of  
418 transportation facilities in the public right-of-way. Each transportation facility in the  
419 County must be planned and designed to:

- 420 (a) maximize the choice, safety, convenience, and mobility of all users,  
421 regardless of age, ability, or mode of transportation,
- 422 (b) maintain or expand connectivity for users,
- 423 (c) respect and maintain the [particular character of] master plan  
424 recommendations for the community where it is located,

425 (d) ensure access, convenience, safety, and investment of resources are  
426 equitably applied,

427 [(d)](e) minimize stormwater runoff and otherwise preserve the natural  
428 environment, and

429 [(e)](f) facilitate, to the maximum extent possible, the future accommodation  
430 of improved transportation technology elements, such as intelligent  
431 signals, smart parking meters, electric vehicle charging, car- and bicycle-  
432 sharing, and way-finding systems.

433 To achieve these goals, each County road and street must be designed so that  
434 the safety and convenience of all intended users of the roadway system [– including  
435 pedestrians, bicyclists, transit users, automobile drivers, commercial vehicles and  
436 freight haulers, and emergency service vehicles – ] is accommodated. [Each road and  
437 street must facilitate multi-modal use and assure that all users can travel safely in the  
438 public right of way. A specified quantity of stormwater must be managed and treated  
439 on-site, in the road or street right-of-way, including through the use of vegetation-based  
440 infiltration techniques.] Complete streets function as a road transportation network  
441 that is safe and convenient for all intended users, regardless of mode. Stormwater  
442 management requirements, including vegetated and structural practices, may be met  
443 on-site and within the public right-of-way. [These context-sensitive] Complete streets  
444 policies must be employed in all phases of publicly or privately funded facility  
445 development, including planning, design, construction, reconstruction, and  
446 streetscaping. [Each transportation project must incorporate complete streets  
447 infrastructure sufficient to promote safe and convenient travel along and across the  
448 right-of-way for all users.]

449 The County Executive must adopt under Method ~~[(3)]~~ (2) a Complete Streets  
450 Design regulation that provides guidance on the planning, design, and operation of  
451 roadways for all intended users.

452 This Article may be cited as the “Montgomery County Road Design and  
453 Construction Code.”

454 **Sec. 49-26. Definitions.**

455 In this Chapter, except where specified otherwise, the following words and  
456 phrases have the meanings indicated:

457 *Bikeway*[:] means any area expressly intended for bicycle travel, including  
458 associated curbs and gutters and any:

459 [(a) *Shared use path*: A paved path that abuts, is contiguous with, and is a  
460 part of the right-of-way for a County road or street, that is typically 10  
461 feet wide but can vary between 8 feet and 14 feet wide, designated for  
462 bicycles and pedestrians, that is separated from motorized traffic by a  
463 curb, barrier, or landscape panel.

464 (b) *Shared use trail*: A paved or unpaved trail designated for bicycles and  
465 pedestrians, that is not part of the right-of-way for a County road or street  
466 because the trail does not abut and lie contiguous with the right of way  
467 for a County road or street.

468 (c) *Bike lane*: A portion of a roadway designated by striping, signing, or  
469 pavement markings for the preferential or exclusive use of bicycles, and  
470 on which through-travel by motor vehicles is not allowed.]

471 (a) *Bike lane* means a portion of a roadway designated by striping, signing,  
472 or pavement markings for the preferential or exclusive use of bicycles,  
473 and on which travel by motor vehicles is not allowed.

474 (b) *Off-street trail* means paths located outside of the road right-of-way that  
475 provide two-way travel for people walking, bicycling and using other  
476 non-motorized modes. This facility was formerly referred to as a “shared  
477 use trail.”

478 (c) Separated bike lane, also known as a protected bike lane or cycle track  
479 means an exclusive bikeway that is physically separated from motor  
480 vehicles and distinct from the sidewalk. A separated bike lane may be in  
481 a one-way or two-way configuration.

482 (d) *Shared use roadway*[:] means [A] a roadway open to both bicycle and  
483 motor vehicle travel and which is designated as a preferred route for  
484 bicycle use by warning or informational signs.

485 [(e) *Separated bike lane, also known as a protected bike lane or cycle track:*  
486 a bikeway that is physically separated from motor vehicles and pedestrian  
487 facilities. The separation may be vertical, such as a curb; horizontal, such  
488 as a landscape panel or parking lane; or a combination. A separated bike  
489 lane may be in a one-way or two-way configuration.

490 (f) *Buffered bike lane:* a bikeway separated from a motor vehicle travel lane  
491 with an area of striped pavement.]

492 (e) Sidepath means a paved path that is located parallel to and within the road  
493 right-of-way. Sidepaths provide two-way travel routes designated for  
494 walking, bicycling, jogging and skating. Sidepaths are separated from  
495 motorized traffic by a curb, barrier, or landscape panel. This facility was  
496 formerly referred to as a “shared use path”.

497 *Complete streets*[:] means streets that are planned, designed, and constructed to  
498 enable safe access for all intended users, including pedestrians, bicyclists, motorists,  
499 and transit riders of all ages and abilities, commercial vehicles, freight haulers, and  
500 emergency service vehicles.

501 *Complete streets infrastructure*[:] means any design feature that contributes to  
502 a safe, convenient, and comfortable travel experience, which may include such features  
503 as sidewalks; [shared use paths] sidepaths, bike lanes, and separated bike lanes; bike  
504 stations and bike storage facilities; narrow motor vehicle lanes and tight curb radii;



505 street trees, planting strips, and other right-of-way landscaping; curbs and accessible  
506 curb ramps; curb extensions, crosswalks, and refuge islands; raised medians;  
507 pedestrian and traffic signals, including countdown and accessible signals; signage;  
508 streetlighting; street furniture; bicycle parking facilities; stormwater management;  
509 public transportation stops and shelters; dedicated transit lanes; and traffic calming  
510 devices.

511 *Construction* and *constructed* include “reconstruction” and “reconstructed” but  
512 not “maintenance,” and include grading, installation of drainage structures, paving,  
513 curbs and gutters, curb returns, sidewalks and other areas intended for pedestrian  
514 access, bikeways, driveway entrances, guardrails, retaining walls, sodding, and  
515 planting.

516 *Curb extension*[:] means an area that extends the line of a curb into a parking  
517 lane, reducing the width of a street.

518 *Curbside Width*[:] means the area beyond each curb necessary for sidewalks,  
519 [shared use paths] sidepaths, street trees and other landscaping, streetlights, utilities,  
520 and other elements.

521 *Dedication plat*[:] means [Any] any plat conforming to law, duly recorded in  
522 the County land records, which has the legal effect of dedicating one or more rights-  
523 of-way to public use. If the plat was recorded after the Maryland-National Capital Park  
524 and Planning Commission was created, and the property is located in the  
525 Commission’s jurisdiction, the Commission must have approved the plat.

526 *Design standard*[:] means the standard adopted by regulation under this Article  
527 for each type of road, as defined in Section 49-31, except Freeways and Controlled  
528 Major Highways, which shows typical cross-sections and other dimensions to which  
529 the road must conform.

530 *Director*[:] means [The] the Director of Transportation or the Director of  
531 Permitting Services, as specified, and each Director’s designee.

532            *Drainage structure[:]* means [Any] any culvert, bridge, storm drain, storm  
533 sewer, catch basin, canal, channel, inlet, ditch, or subsurface drain, and any other  
534 structure or watercourse designed to convey surface or other waters.

535            *Dual road[:]* means [Any] any road in which the travel directions are separated  
536 by a median.

537            *Forest conservation plan[:]* means [A] a plan for the retention, afforestation, or  
538 reforestation of forest and trees approved under Chapter 22A.

539            *Ground cover[:]* means [Low] low-maintenance, non-invasive, leafy, grassy, or  
540 woody vegetation that covers and holds soil.

541            *Maximum target speed[:]* means the maximum speed at which vehicles should  
542 operate on a thoroughfare in a specific context, consistent with the level or multimodal  
543 activity generated by adjacent land uses, to provide mobility for motor vehicles and a  
544 safe environment for pedestrians and bicyclists.

545            [*Pedestrian walkway:* Any sidewalk, and any other land, way, or path  
546 designated by appropriate signs for a pedestrian route.]

547            *Private road[:]* means [Any] any road [street, highway, avenue, lane, alley, or  
548 viaduct,] or any segment of [any of them] a road, including any [pedestrian walkway]  
549 sidewalk, sidepath, or other area intended for pedestrian access adjacent to the private  
550 road that has not been deeded, dedicated or otherwise permanently appropriated to the  
551 public for public use or County maintenance.

552            *Protected Crossing* means specific traffic control devices that improve the  
553 safety and comfort of pedestrians and bicyclists crossing streets by reducing or  
554 eliminating conflicts, as well as increasing stopping and yielding for pedestrians and  
555 bicyclists, using measures such as traffic signals (full signals with pedestrian signals),  
556 pedestrian hybrid (HAWK) beacons, all-way stop control, or grade-separated  
557 crossings.

558 *Reconstruct* and *reconstruction* include any change in the width, alignment, or  
559 design of a road or other structural features within or along a roadway [– that is, the  
560 width of the pavement or the area between curbs –] but [do] does not include  
561 resurfacing a road, bikeway, or sidewalk without any change in its width.

562 *Road*[:] means [Any] any road, street, highway, avenue, boulevard, lane, alley,  
563 bridge, [shared use path] sidepath, sidewalk, viaduct, or any segment of any of them,  
564 and any related storm drain and stormwater management facility.

565 *Rural area* means an area designated as the Rural East and Rural West policy  
566 areas in the Growth and Infrastructure Policy.

567 *Sidewalk*[:] means any portion of the right-of-way for a County road [or street]  
568 that is expressly intended [as a pedestrian walkway] for pedestrians, including  
569 pedestrian ramps.

570 *Specimen tree*[:] means [Any] any tree with a diameter measured at 4.5 feet  
571 above the ground of 30 inches or more, or any tree with 75% or more of the diameter  
572 of the current champion tree of that species, as designated by the County Forest  
573 Conservation District Board.

574 *Speed hump* means a parabolic or flat-top device used to create vertical  
575 deflection along a roadway for traffic calming purposes. These may include wheel  
576 gaps that allow target vehicles to pass through unaffected or flat-top devices may  
577 include crosswalks.

578 *Street tree*[:] means [A] a tree that is listed in the design standards as acceptable  
579 for planting in a public right-of-way. In a private road right-of-way or easement, a tree  
580 listed as acceptable for planting in the Planning Board technical manual for forest  
581 conservation.

582 *Subdivision*[:] means [The] the division or [partition] assemblage of a lot, tract  
583 or parcel of land into [2] one or more lots, plots, sites, tracts, parcels, or other divisions

584 for immediate or future rental, sale, or building development. *Subdivision* includes a  
585 re-subdivision, but not a division or partition of land for agricultural purposes.

586 *Transitway*[:] means a right-of-way for use exclusively by public transit  
587 vehicles.

588 *Urban area* means areas depicted [[by Appendix E]] in the Master Plan of  
589 Highways and Transitways as amended, or by any replacement functional, master, or  
590 sector plan that defines urban areas or urban road code boundaries.

591 **Sec. 49-27. Applicability of Article.**

592 This Article applies to all roads in the County, except any:

- 593 (a) [State] state road;
- 594 (b) [Federal] federal road;[.]
- 595 (c) [Road] road located in any part under the jurisdiction of the Maryland-  
596 National Capital Park and Planning Commission;
- 597 (d) [Private] private road; or
- 598 (e) [Municipally] municipally owned and maintained road.

599 Nothing in this Article prevents the County from building, and assessing the cost  
600 of, any drainage structure, curb or gutter, sidewalk, [shared use path] sidepath, curb  
601 return, or sidewalk and driveway entrance, along a [State] state or [Federal] federal  
602 road.

603 **Sec. 49-28. Standards and specifications.**

- 604 (a) Except as otherwise provided in this Article, the construction of all roads  
605 must conform to the standards[, criteria] and specifications in this Article  
606 or any regulation adopted under this Article. As used in this Article,  
607 “standards” means County design standards including the regulation  
608 adopting the [[Complete]] complete streets design, and “specifications”  
609 means the most recent [State] state standard specifications for road  
610 construction and materials. When no County standards or specifications

611 are applicable, the County will apply the current guidance published by  
 612 the American Association of State and Highway Transportation Officials  
 613 (AASHTO) or National Association of City Transportation Officials  
 614 (NACTO).

615 (b) The [Director of Transportation] Executive may set a fee by [method 2]  
 616 Method (3) regulation for the review of any plan or document submitted  
 617 under Chapter 50 or this Chapter. Each fee must be based on the costs of  
 618 reviewing any plan or document and any staff participation in the  
 619 subdivision process. The Department must provide a copy of each fee  
 620 regulation to the Planning Board.

621 (c) The Department of Transportation must make available to the public, free  
 622 or at a reasonable cost, an up-to-date copy of all applicable County road  
 623 design standards and specifications.

624 **Sec. 49-29. Pedestrian [walkways] sidewalks, bikeways, and wheelchair traffic.**

625 (a) The County must construct bikeways [[Bikeways]] and [walkways]  
 626 sidewalks [[must be constructed]] when [[any County road]] it is  
 627 [[constructed, reconstructed, or relocated]] constructing, reconstructing,  
 628 or relocating a County road, except [any walkway]:

629 (1) any sidewalk or sidepath in front of a lot that is larger than 25,000  
 630 square feet for a single-family detached dwelling in a rural zone;

631 (2) any sidewalk or sidepath on any roadway that is classified as  
 632 [exceptional rustic, rustic, country arterial, or country road] rustic  
 633 or exceptional rustic;

634 (3) any sidewalk or sidepath on a [tertiary residential] neighborhood  
 635 street or neighborhood yield street serving fewer than 75 dwelling  
 636 units if the Planning Board and Department of Transportation

637 [finds] find that a sidewalk is not expected to be [unnecessary]  
638 necessary for pedestrian movement[, or];

639 (4) any sidewalk if the site is located in an environmentally sensitive  
640 area with limits on the amount of impervious surface allowed.[.]  
641 [[; or]]

642 [[ (5) where the Department of Permitting Services finds that a bikeway  
643 or sidewalk is infeasible because it will not connect to any destination  
644 within the foreseeable future, or the facility qualifies for fee payments in  
645 lieu of construction under Section 49-40.]]

646 Each bikeway and [walkway] sidewalk must conform to approved capital  
647 improvements programs and be consistent with applicable area master  
648 plans and transportation plans adopted by the Planning Board.

649 (b) To promote the safety of bicycle and wheelchair travel throughout the  
650 County, the County Executive must adopt, by Method (3) regulation,  
651 standards and specifications to build and maintain ramps at curbed  
652 intersections and [storm water] stormwater gratings and other openings  
653 along roads and streets, in each case of a design and type that is not a  
654 hazard to bicycle and wheelchair traffic and is consistent with Americans  
655 with Disabilities Act best practices guidelines published by the United  
656 States Department of Justice. These ramps, gratings, and openings must  
657 be built and maintained as part of each project under subsection (a).

658 **Sec. 49-30. Traffic [Calming] calming.**

659 (a) The Director of Transportation must consider installing traffic calming  
660 and bicycle- and pedestrian-friendly design features [in] on any  
661 [residential] area connector, neighborhood connector, neighborhood  
662 street, or neighborhood yield street over 1,000 feet long, [minor arterial,  
663 business district street] downtown street, town center street, and industrial

664 street. Traffic calming features include raised crosswalks and raised  
665 intersections, traffic [circle] circles, medians, pedestrian refuge islands,  
666 [[chokers]] curb extensions, smaller centerline radii, parking cut-outs,  
667 chicanes, other forms of horizontal or vertical deflection, and special  
668 paving and streetscaping in central business districts or other commercial  
669 areas.

670 (b) [Speed humps that are 12 feet wide may be built on any principal  
671 secondary residential street, secondary residential street, tertiary  
672 residential street, or alley, but must be spaced at least 500 feet from any  
673 other hump and 200 feet from any intersection. Speed humps that are 22  
674 feet wide may be built on any primary residential street, but must be  
675 spaced at last 500 feet from any other hump and 200 feet from any  
676 intersection. Speed humps that are 22 feet wide may be built on a minor  
677 arterial, but must be spaced at least 750 feet from any other hump and  
678 300 feet from any intersection. Before speed humps are installed in any  
679 road, all other requirements specified in applicable regulations must be  
680 met.] Speed hump location and placement:

681 (1) speed humps that are 12 feet wide may be built on any  
682 neighborhood street, neighborhood yield street, or alley, but must  
683 be spaced at least 500 feet from any other hump and 200 feet from  
684 any intersection;

685 (2) speed humps that are 22 feet wide may be built on any downtown  
686 street, town center street, or shared street, but must be spaced at  
687 least 500 feet from any other hump and 200 feet from any  
688 intersection;

689 (3) speed humps that are 22 feet wide may be built on a downtown  
690 boulevard, town center boulevard, area connector, neighborhood

691 connector, rustic or exceptional rustic road, or industrial street, but  
692 must be spaced at least 750 feet from any other hump and 300 feet  
693 from any intersection; and

694 (4) before speed humps are installed in any road, all other  
695 requirements specified in applicable regulations must be met.

696 **Sec. 49-31. Classification of roads.**

697 [Each road, except those listed in subsections (m)-(n), must be classified as  
698 designated in the applicable master or sector plan. This Section defines the vehicular  
699 functions of each road classification.

700 (a) A Freeway is a road meant exclusively for through movement of vehicles  
701 at a high speed. Access must be limited to grade-separated interchanges.

702 (b) A Controlled Major Highway is a road meant exclusively for through  
703 movement of vehicles at a lower speed than a Freeway. Access must be  
704 limited to grade-separated interchanges or at-grade intersections with  
705 public roads.

706 (c) A Major Highway is a road meant nearly exclusively for through  
707 movement of vehicles at a moderate speed. Access must be primarily  
708 from grade-separated interchanges and at-grade intersections with public  
709 roads, although driveway access is acceptable in urban and denser  
710 suburban settings.

711 (d) A Parkway is a road meant exclusively for through movement of vehicles  
712 at a moderate speed. Access must be limited to grade-separated  
713 interchanges and at-grade intersections. Any truck with more than 4  
714 wheels must not use a Parkway, except in an emergency or if the trust is  
715 engaged in Parkway maintenance.



- 716 (e) An Arterial is a road meant primarily for through movement of vehicles  
717 at a moderate speed, although some access to abutting property is  
718 expected.
- 719 (f) A Country Arterial is an Arterial, typically in the County’s agricultural  
720 reserve.
- 721 (g) A Minor Arterial is a 2-land Arterial meant nearly equally for through  
722 movement of vehicles and access to abutting property.
- 723 (h) A Business District Street is a road meant for circulation in commercial  
724 and mixed-use zones.
- 725 (i) An Industrial Street is a road meant for circulation in industrial zones.
- 726 (j) A Primary Residential Street is a road meant primarily for circulation in  
727 residential zones, although some through traffic is expected.
- 728 (k) A Country Road is a road that has the function of a Primary Residential  
729 Street, typically in the County’s agricultural reserve.
- 730 (l) A Principal Secondary Residential Street is a Secondary Residential  
731 Street meant to carry somewhat more through traffic.
- 732 (m) A Secondary Residential Street is a road meant to provide access between  
733 a residential development with fewer than 200 dwelling units and one or  
734 more higher classification roads as defined in subsections (b) through (l).
- 735 (n) A Tertiary Residential Street is a road meant to provide direct access to a  
736 residential development with 75 or fewer dwelling units. A Tertiary  
737 Residential Street must not be built unless the Planning Board allows its  
738 use when the Board approves a preliminary subdivision plan or site plan.
- 739 (o) A Rustic Road or an Exceptional Rustic Road means a road classified as  
740 either under Article 8.
- 741 (p) An Alley is a right-of-way intended to provide secondary service access  
742 to the rear or side of lots or buildings and not intended for transporting

743 through traffic. An alley may be used to provide primary vehicular access  
744 if the Planning Board and the Director of Transportation concur that the  
745 dimensions and specifications proposed in a project, preliminary  
746 subdivision, or site plan would provide adequate primary vehicular  
747 access.]

748 (a) In this Article and the regulations adopted under it. County area types  
749 are as follows until subsequently designated by functional plans, master  
750 plans, or sector plans:

751 (1) A downtown area consists of areas with the highest intensity of  
752 development. These areas are:

753 (A) Bethesda CBD;

754 (B) Friendship Heights CBD;

755 (C) Silver Spring CBD;

756 (D) Wheaton CBD;

757 (E) White Flint Sector Plan area; [[and]]

758 (F) White Flint 2 Sector Plan area west of the CSX  
759 Metropolitan Branch[.];

760 (G) Life Science/FDA Village area of the 2014 White Oak  
761 Science Gateway Master Plan;

762 (H) Life Science Center Districts in the 2010 Great Seneca  
763 Science Corridor Master Plan: LSC Belward, LSC North,  
764 LSC Central and LSC West districts; and

765 (I) Rock Spring Sector Plan.

766 (2) A town center area consists of areas with moderate to high  
767 development intensity. These areas are:

768 (A) Burtonsville Town Center;

769 (B) Cabin Branch;

- 770                    (C) Chevy Chase Lake;
- 771                    ~~[(B)]~~(D) Clarksburg Town Center;
- 772                    ~~[(C)]~~(E) Damascus Town Center;
- 773                    ~~[(D)]~~(F) Germantown Town Center;
- 774                    (G) Glenmont Sector Plan Area;
- 775                    (H) Grosvenor-Strathmore Sector Plan Area;
- 776                    ~~[(E)]~~(I) Kensington Town Center;
- 777                    (J) Langley Crossroads;
- 778                    (K) Lyttonsville Purple Line Station;
- 779                    (L) Montgomery Hills;
- 780                    ~~[(F)]~~(M) Olney Town Center;[[and]]
- 781                    (N) Piney Branch;
- 782                    (O) Shady Grove Sector Plan Area
- 783                    (P) Twinbrook Sector Plan Area
- 784                    (Q) Westbard;
- 785                    (R) White Flint 2 Sector Plan area east of the CSX Metropolitan
- 786                    Branch; and
- 787                    ~~[(G)]~~(S) Woodside Purple Line Station.
- 788                    (3) A country area is located within the designated Rural area.
- 789                    (4) An industrial area is an area with predominantly industrial zoning.
- 790                    ~~[(4)]~~(5) A suburban area is an area with predominantly residential
- 791                    zoning that is not already a downtown, town center, industrial, or
- 792                    country area.
- 793                    ~~[(5)]~~(6) These areas may be created, eliminated or modified by
- 794                    functional plans, master plans, or sector plans.

795 ~~[(6)]~~(7) Roads are included in the area within which they are  
796 located. Roads bordering on two areas will be assigned to the area  
797 with the greater development intensity.

798 (b) Each road must be assigned a County classification and a federal  
799 classification. Federal classifications are assigned in accordance with the  
800 most recent edition of the Federal Highway Administration Highway  
801 Functional Classification typologies.

802 (c) County classifications are:

803 (1) A Freeway is a road meant exclusively for through movement of  
804 vehicles at a high speed. Access must be limited to grade-  
805 separated interchanges.

806 (2) A Controlled Major Highway is a road meant exclusively for  
807 through movement of vehicles at a lower speed than a Freeway.  
808 Access must be limited to grade-separated interchanges or at-grade  
809 intersections with public roads.

810 (3) A Parkway is a road meant exclusively for through movement of  
811 vehicles at a moderate speed. Access must be limited to grade-  
812 separated interchanges and at-grade intersections. Any truck with  
813 more than four wheels must not use a Parkway, except in an  
814 emergency or if the truck is engaged in Parkway maintenance.

815 (4) A Downtown Boulevard is a road in a downtown area that serves  
816 a high volume of vehicles, pedestrians, bicyclists, or transit users.  
817 Access to abutting properties is allowed but not preferable. These  
818 roads were previously classified as major highways and arterials.

819 (5) A Downtown Street is a road in a downtown area that serves a large  
820 share of pedestrians, bicyclists, or transit users. This road type is  
821 meant for circulation in commercial and mixed-use zones. Access

822 to abutting properties is expected. These roads were previously  
823 classified as business streets.

824 (6) A *Boulevard* is a road that typically connects employment and  
825 entertainment centers, civic, commercial, and institutional land  
826 uses, and may also provide [[cross-country]] cross-county and  
827 regional connections. Pedestrian, bicycle, and transit users are to  
828 be accommodated. Some access to abutting properties is expected.  
829 These roads were previously classified as major highways and  
830 arterials.

831 (7) A *Town Center Boulevard* is a road in a town center area that  
832 serves a moderate to high volume of vehicles, pedestrians,  
833 bicyclists, or transit users. Access to abutting properties is allowed  
834 but generally not preferable. These roads were previously  
835 classified as major highways and arterials.

836 (8) A *Town Center Street* is a road in a town center area that serves a  
837 larger share of pedestrians, bicyclists, or transit users. This road  
838 type is meant for circulation in commercial and mixed-use zones.  
839 Access to abutting properties is expected. These roads were  
840 previously classified as business streets.

841 (9) An *Area Connector* is a two-lane street in a suburban area that  
842 typically connects employment and entertainment centers, civic,  
843 commercial, and institutional land uses, and may also provide  
844 limited regional connectivity and serve primary circulation in  
845 residential zones. These roads were previously classified as minor  
846 arterials.

847 (10) A *Neighborhood Connector* is a street in a suburban area providing  
848 primary circulation in residential zones and may also enable traffic

849 to pass through a neighborhood. These streets were previously  
850 classified as primary residential streets.

851 (11) A Neighborhood Street is a street that provides internal circulation  
852 within suburban areas. Access to abutting properties is expected.  
853 These streets were previously classified as secondary and tertiary  
854 residential streets.

855 (12) A Neighborhood Yield Street is a Neighborhood Street that is  
856 designed as a bi-directional one-lane street.

857 (13) An Industrial Street is a road meant for circulation in areas  
858 consisting predominantly of industrial zones.

859 (14) A Country Connector is a road in a country area that was  
860 previously classified as major highways, arterials, or country  
861 arterials.

862 (15) A Country Road is a low intensity road in a country area.

863 (16) An Alley is a right-of-way intended to provide secondary access to  
864 the rear or side of lots or buildings and not intended for  
865 transporting through traffic. An alley may be used to provide  
866 primary vehicular access if the Planning Board and the Director of  
867 Transportation concur that the dimensions and specifications  
868 proposed in a project, preliminary subdivision, or site plan would  
869 provide adequate primary vehicular access. An Alley is a  
870 Residential Alley if serving only residential zones, or a  
871 Commercial Alley if serving any non-residential zones.

872 (17) A Rustic Road or an Exceptional Rustic Road means a road  
873 classified as such under Article 8.

874 (18) A Residential Shared Street or Commercial Shared Street is a  
875 street designed to create a shared traffic environment where

876 pedestrians, bicyclists, and other non-motorized traffic may  
877 comfortably occupy the same space as motor vehicle traffic. These  
878 streets prioritize pedestrian and bicycle movement by slowing  
879 vehicular speeds and communicating clearly through design  
880 features that motorists must yield to all other users. A Shared  
881 Street is a Residential Shared Street if serving only residential  
882 zones, or a Commercial Shared Street is serving any non-  
883 residential zones.

884 (d) County classifications are assigned as follows until the roads are re-  
885 designated by functional plans, master plans, or sector plans. The number  
886 of lanes is defined as the number of through lanes for motor vehicles and  
887 is tallied based on the number of planned lanes for that road, or the  
888 number of existing lanes if not specified by any functional plan, master  
889 plan, or sector plan.

890 (1) Freeways retain their classifications as Freeways.

891 (2) Controlled Major Highways retain their classifications as  
892 Controlled Major Highways.

893 (3) Parkways retain their classifications as Parkways.

894 (4) Major highways:

895 (A) Major highways located in a downtown area are classified  
896 as Downtown Boulevards.

897 (B) Major Highways located in a town center area are classified  
898 as Town Center Boulevards.

899 (C) Two-lane Major Highways located in a country area are  
900 classified as Country Connectors.

901 (D) Two-lane Major Highways located in a suburban area are  
902 classified as Area Connectors.

903 (E) All Major Highways not addressed by (A) through (D) are  
904 classified as Boulevards.

905 (5) Arterials:

906 (A) Arterials with four or more lanes located in a downtown area  
907 are classified as Downtown Boulevards.

908 (B) Arterials with fewer than four lanes located in a downtown  
909 area are classified as Downtown Streets.

910 (C) Arterials with more than two lanes located in a town center  
911 area are classified as Town Center Boulevards.

912 (D) Arterials with two lanes located in a town center area are  
913 classified as Town Center Streets.

914 (E) Arterials located within a country area are classified as  
915 Country Connectors.

916 (F) Two-lane Arterials located in a suburban area are classified  
917 as Area Connectors.

918 (G) All Arterials not addressed by (A) through (F) are classified  
919 as Boulevards.

920 (6) Minor Arterials:

921 (A) Minor Arterials with four or more lanes located in a  
922 downtown area are classified as Downtown Boulevards.

923 (B) Minor Arterials with fewer than four lanes located in a  
924 downtown area are classified as Downtown Streets.

925 (C) Minor Arterials with more than two lanes located in a town  
926 center area are classified as Town Center Boulevards.

927 (D) Minor Arterials with two lanes located in a town center area  
928 are classified as Town Center Streets.



929                    (E) Minor Arterials located within a country area are classified  
930                    as Country Connectors.

931                    (F) All Minor Arterials not addressed by (A) through (E) are  
932                    classified as Area Connectors.

933                    (7) Business District Streets:

934                    (A) Business District Streets with four or more lanes located in  
935                    a downtown area are classified as Downtown Boulevards.

936                    (B) Business District Streets with fewer than four lanes located  
937                    in a downtown area are classified as Downtown Streets.

938                    (C) Business District Streets with more than two lanes that are  
939                    not located in a downtown area are classified as Town  
940                    Center Boulevards.

941                    (D) Business District Streets with two lanes that are not located  
942                    in a downtown area are classified as Town Center Streets.

943                    (8) Industrial Streets retain their classification as Industrial Streets.

944                    (9) Primary Residential Streets:

945                    (A) Primary Residential Streets located in a country area are  
946                    classified as Country [[Connectors]] Roads.

947                    (B) Primary Residential Streets not located in a country area are  
948                    classified as Neighborhood Connectors.

949                    (10) Secondary Residential Streets are classified as Neighborhood  
950                    Streets.

951                    (11) Tertiary Residential Streets are classified as Neighborhood Streets.

952                    (12) Country Arterials are classified as Country Connectors.

953                    (13) Country Roads retain their classifications as Country Roads.

954                    (14) Shared Streets with entirely residential zoning along its frontage  
955                    are classified as a Residential Shared Street.

956 (15) Shared Streets with any non-residential zoning along its frontage  
957 are classified as a Commercial Shared Street.

958 (16) Alleys retain their classifications as Alleys.

959 (17) Rustic Roads retain their classifications as Rustic Roads.

960 (18) Exceptional Rustic Roads retain their classifications as  
961 Exceptional Rustic Roads.

962 [(19) Transitions along continuous roadways:

963 (A) If a Downtown road type changes classification to or from  
964 a non-Downtown road type: the Downtown classification  
965 will extend to the next master planned cross-street, not to  
966 exceed 500 feet beyond the limits of the downtown area.

967 (B) If a Town Center road type changes classification to or from  
968 a non-Downtown and non-Town Center road type: the  
969 Town Center classification will extend to the next master  
970 planned cross-street, not to exceed 500 feet beyond the  
971 limits of the town center area.

972 (C) If a Downtown Boulevard, Town Center Boulevard, or  
973 Boulevard change classification to or from any other type:  
974 the Downtown Boulevard, Town Center Boulevard, or  
975 Boulevard classification will extend to the next master  
976 planned cross-street, not to exceed 500 feet beyond the  
977 initial transition point.

978 (D) The transition areas noted in (A) through (C) are not  
979 additive; if the roadway meets multiple transition criteria the  
980 transition area will remain to the next master planned cross-  
981 street, not to exceed 500 feet from the nearest of either the

982 limits of the downtown or town center area, or the initial  
983 transition point.]]

984 ~~[(20)]~~(19) If, after consultation with the staff of the Planning Board,  
985 the Department of Transportation determines that the  
986 criteria under (d)(1) through ~~[(d)(19)]~~ (d)(18) are not  
987 suitable for a particular road, the Department may determine  
988 that a more context-sensitive classification or transition  
989 length applies in lieu of the default classifications.

990 **Sec. 49-32. Design standards for types of roads.**

991 \* \* \*

992 [(c) In this Article and the standards adopted under it:

- 993 (1) an ‘urban’ road is a road segment in or abutting a Metro Station
- 994 Policy Area, Town Center Policy Area, or other urban area
- 995 expressly identified in a Council resolution;
- 996 (2) a ‘rural’ road is a road segment located in a rural policy area as
- 997 defined in the County Growth Policy; and
- 998 (3) a ‘suburban’ road is a road segment located elsewhere in the
- 999 County.]

1000 ~~[(d)]~~(c) The minimum right-of-way for a road may be specified in the most  
1001 recent applicable functional plan, master plan, or sector plan for the area  
1002 where the road is located. Minimum rights-of-way generally do not  
1003 include continuous features along a typical section, and account for  
1004 parking, drainage and stormwater management, spot conditions such as  
1005 auxiliary lanes or transit stations, or infrastructure at intersections such as  
1006 signal equipment and protected intersections. If a minimum right-of-way  
1007 for a particular road is not specified [n] in a functional plan, master plan,  
1008 or sector plan, the minimum right-of-way must be:

- 1009 [(1) 80 feet for a Business District Street or Industrial Street;
- 1010 (2) 100 feet for a Primary Residential Street with a median;
- 1011 (3) 70 feet for a Primary Residential Street without a median;
- 1012 (4) 60 feet for a Principal Secondary Residential Street or Secondary
- 1013 Residential Street;
- 1014 (5) 50 feet for a standard Tertiary Residential Street;
- 1015 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1016 with two-way traffic;
- 1017 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1018 with one-way traffic; and
- 1019 (8) 20 feet for an Alley.]
- 1020 (1) 80 feet for a Downtown Street;
- 1021 (2) 80 feet for a Town Center Street;
- 1022 (3) 70 feet for an Area Connector;
- 1023 (4) 70 feet for a Neighborhood Connector;
- 1024 (5) 60 feet for a Neighborhood Street;
- 1025 (6) 50 feet for a Neighborhood Yield Street;
- 1026 (7) 80 feet for an Industrial Street;
- 1027 (8) 74 feet for a Country Connector;
- 1028 (9) 70 feet for a Country Road;
- 1029 (10) 20 feet for an Alley serving any non-residential zoning;
- 1030 (11) 16 feet for an Alley serving only residential zoning;
- 1031 (12) 40 feet for a Commercial Shared Street;
- 1032 (13) 40 feet for a Residential Shared Street.

1033 [(e)](d) Grass shoulders must be load bearing at any specific location designated  
1034 by the Director of Permitting Services after consulting the Fire Chief and  
1035 Director of Transportation.

1036 [(f)](e) Unless otherwise specified in this Article, each grading, drainage  
 1037 structure, paving, shoulder, landscaping, and traffic control must be  
 1038 installed as provided in the latest applicable County design standards,  
 1039 storm drain criteria, and specification. Unless extenuating circumstances  
 1040 would result in a safety hazard, when a road is resurfaced the road must  
 1041 also be restriped to meet any applicable lane width standard and may  
 1042 include bike lanes where appropriate.

1043 [(g) Each through travel or turning lane on an urban road must be no wider  
 1044 than 10 feet, except that a single travel lane adjacent to a parking lane  
 1045 must be no wider than 11 feet and a through travel or turning lane abutting  
 1046 an outside curb must be no wider than 11 feet, including the gutter pan.  
 1047 Each parking lane on an urban road must be no wider than 8 feet,  
 1048 including the gutter pan. The standards in this subsection do not apply if,  
 1049 for a road improvement required as a result of approving a subdivision or  
 1050 site plan, the Executive or the Executive’s designee concludes that  
 1051 applying a specific standard at a specific site would significantly impair  
 1052 public safety.]

1053 [(h)](f) The curb radius at the corner of each intersection ~~[[of two]]~~ [urban]  
 1054 ~~[[roads in Downtown or Town Center areas must not exceed]]~~ is 15 feet.  
 1055 ~~[[The curb radius at the corner of intersections where all intersecting~~  
 1056 ~~streets are Area Connectors, Neighborhood Connectors, Neighborhood~~  
 1057 ~~Streets, or Neighborhood Yield Streets must not exceed 10 feet.]]~~  
 1058 Exceptions to these requirements may be allowed as follows [except  
 1059 where]:

1060 [(1) there is only one receiving lane;]

1061 [(2)](1) A ~~[[minimum]]~~ maximum 10-foot corner radius is required at  
 1062 intersections where all intersecting streets are Area Connectors,

1063 Neighborhood Connectors, Neighborhood Streets, or Neighborhood  
1064 Yield Streets;

1065 (2) A larger corner radius is acceptable where there is a curb extension  
1066 [is located]; [or]

1067 ~~[(2)]~~(3) [[a default]] A 25-foot radius is [[required]] acceptable  
1068 where at least one street is an Industrial Street;

1069 ~~[(3)]~~(4) [[a]] A larger corner radius is needed to serve the design  
1070 vehicle and control vehicle with consideration of the allowable  
1071 encroachment defined by the Complete Streets Design regulation;  
1072 or

1073 ~~[(3)]~~~~[(4)]~~(5) [for] [[a]] A road improvement required [as a result of  
1074 approving] by a subdivision or site plan [, the Executive or the  
1075 Executive’s designee concludes that applying this standard at a  
1076 specific site] would significantly impair public safety.

1077 ~~[(i)]~~(g) Each pedestrian refuge must be at least 6 feet wide. A pedestrian refuge  
1078 must be located at each intersection approach along [on] a divided  
1079 highway with 6 or more through travel lanes.

1080 ~~[(j)]~~(h) Unless otherwise specified in a functional plan, master plan, sector plan,  
1081 or the approved capital improvements program, the maximum target  
1082 speed for a road [in an urban area is 25 mph.] shall be:

1083 (1) 25 mph for a Downtown Boulevard;

1084 (2) 20 mph for a Downtown Street;

1085 (3) 35 mph for a Boulevard, except 25 MPH if in an Urban Area;

1086 (4) 30 mph for a Town Center Boulevard, except 25 MPH if in an  
1087 Urban Area;

1088 (5) 25 mph for a Town Center Street;

1089 (6) 25 mph for an Area Connector;

- 1090 (7) [[25]] 20 mph for a Neighborhood Connector;
- 1091 (8) 20 mph for a Neighborhood Street;
- 1092 (9) 20 mph for a Neighborhood Yield Street;
- 1093 (10) 25 mph for an Industrial Street;
- 1094 (11) 40 mph for a Country Connector;
- 1095 (12) between 20 to 35 mph for a Country Road;
- 1096 (13) between 45 to 55 mph for a Major Highway;
- 1097 (14) case-by-case determinations for Alleys, and Shared Streets[,]; and
- 1098 (15) 30 mph for Rustic Roads, and Exceptional Rustic Roads[[:]].

**Sec. 49-33. Road construction and reconstruction requirements.**

\* \* \*

1101 [(c) Cul-de-sacs or turnarounds are required if the paving of a road ends other  
1102 than at a paved road intersection. Each turnaround or cul-de-sac must be  
1103 graded, paved, and include appropriate drainage structures and temporary  
1104 curbs, if the Department of Permitting Services so requires.]

1105 [(d)](c) If a preliminary drainage study indicates that a minimum right-of-way  
1106 or storm drain easement width required in this Article is inadequate to  
1107 properly drain a particular road, the Department of Permitting Services  
1108 may require any additional right-of-way or storm drain easement  
1109 necessary for proper drainage. The Department must notify the permittee  
1110 of any added right-of-way before a dedication plat is approved by the  
1111 Planning Board (or equivalent body in any municipality with land use  
1112 authority) and recorded in the County land records, and must notify the  
1113 permittee of any added easement when it approves a right-of-way permit.

1114 (1) If a lot or lots front on a public road, the permittee must provide  
1115 sufficient drainage easements to allow for the safe conveyance of

1116 stormwater from the public right-of-way to either an approved  
1117 outfall or an approved public structure.

1118 [(e)](d) (1) If a lot or lots front on a public road, the permittee must [install]  
1119 construct sidewalks, master-planned bikeways, ramps, curbs, and gutters,  
1120 except [any sidewalk]:

1121 (A) any sidewalk or sidepath in front of a lot that is larger than  
1122 25,000 square feet for a single-family detached dwelling in  
1123 a rural [zone] area;

1124 (B) any sidewalk or sidepath on any roadway that is classified  
1125 as [exceptional rustic, rustic, country arterial, or country  
1126 road] rustic or exceptional rustic;

1127 (C) any sidewalk or sidepath on a [tertiary residential]  
1128 neighborhood street or neighborhood yield street serving  
1129 fewer than 75 dwelling units [, or in an environmentally  
1130 sensitive area with limits on the amount of impervious  
1131 surface allowed,] if [in either case] the Planning Board and  
1132 Department of Transportation [finds] find that a sidewalk is  
1133 not expected to be [unnecessary] necessary for pedestrian  
1134 movement; [or]

1135 (D) any sidewalk if the site is located in an environmentally  
1136 sensitive area with limits on the amount of impervious  
1137 surface allowed if the Planning Board and Department of  
1138 Transportation find that a sidewalk is not expected to be  
1139 necessary for pedestrian movement; or

1140 [(D)](E) any sidewalk or sidepath on a [secondary or tertiary  
1141 residential] neighborhood street, neighborhood yield street,  
1142 or service drive where the Department of Permitting



1143 Services finds that a sidewalk or sidepath is infeasible, will  
 1144 not connect [potentially] to other sidewalk segments within  
 1145 the foreseeable future, or qualifies for fee payments in lieu  
 1146 of construction under Section 49-40[.]; or

1147 (F) any sidewalk or master-planned bikeway where the  
 1148 Planning Board establishes criteria to accept a payment in  
 1149 lieu of a transportation improvement.

1150 (2) However, the Planning Board may require the applicant to install  
 1151 sidewalks, bikeways, ramps, curbs, and gutters if the Board finds,  
 1152 as a condition of approval of a preliminary subdivision plan or site  
 1153 plan, that sidewalks, [bikeway connections] bikeways, ramps,  
 1154 curbs, and gutters at that location are necessary to allow access:

1155 (A) to [a] an existing or planned sidewalk or bikeway;

1156 (B) to a bus or other public transit stop;

1157 (C) to an amenity or public facility that will be used by  
 1158 occupants of the site or subdivision; or

1159 (D) by persons with disabilities.

1160 Before the Planning Board approves any requirement under this  
 1161 paragraph, the Board must give the Departments of Permitting  
 1162 Services and Transportation a reasonable opportunity to comment  
 1163 on the proposed requirement.

1164 [(f)](e) The construction of half roads or any road of less than the width required  
 1165 by this Article is prohibited except as permitted in Section 49-40.  
 1166 [However, construction] Construction of such portions of roads is  
 1167 permitted if the dedicated portion of the road established by a dedication  
 1168 plat and recorded in the County land records before August 15, 1950 is

1169 wide enough to permit the grading and construction of paving [18] 20 feet  
1170 wide with curbs, gutters, and sidewalks required for the type of road.

1171 [(g)](f) A road must not be constructed unless it connects with an existing public  
1172 road at one end. A road must not be constructed short of an intersection  
1173 unless it connects with an existing public road or the dedication of the  
1174 right-of-way ends short of an intersection. If any road construction ends  
1175 at or goes through an intersection, the intersection must be completed. If  
1176 a road ends at other than an intersection or a point of connection with an  
1177 existing road, [turnarounds or cul-de-sacs] a turnaround such as a cul-de-  
1178 sac must be provided. Each turnaround must be graded, paved, and  
1179 include appropriate drainage structures and temporary curbs if required  
1180 by the Department of Permitting Services.

1181 [(h)](g) If drainage structures are required for any particular class of road, the  
1182 Planning Board must require the applicant to install or construct drainage  
1183 structures that the Board finds are necessary or appropriate, after  
1184 reviewing a preliminary drainage study approved by the Department of  
1185 Transportation, in accordance with applicable design standards and  
1186 specifications.

1187 [(i)](h) Driveway entrances to individual lots must be required if the Planning  
1188 Board finds that off-street parking facilities are necessary and practicable.

1189 [(j)](i) *Street trees.*

1190 (1) On public road rights-of-way, street trees must be planted in  
1191 accordance with design standards of the Department of  
1192 Transportation. On private road rights-of-way and easements,  
1193 street trees must be planted in accordance with the technical  
1194 manual adopted by the Planning Board under Chapter 22A.

1195 (2) The Department of Permitting Services, the Department of  
1196 Transportation, and the staff of the Planning Board should  
1197 coordinate the specific location and species of street tree plantings  
1198 to promote compatibility of the plantings with road function and  
1199 safety, signage, maintenance, appropriate visual buffering,  
1200 utilities, other public or private improvements, and aesthetic  
1201 considerations related to streetscape design.

1202 [(k)](j) *Ground cover.*

1203 (1) A property owner may plant and maintain ground cover in a public  
1204 right-of-way adjacent to the owner's property if the owner:

1205 (A) complies with [guidelines issued under paragraph (3)]  
1206 County regulations;

1207 (B) maintains the ground cover to prevent any obstruction of the  
1208 public right-of-way prohibited under Section 49-10; and

1209 (C) holds the County harmless for any damage to the ground  
1210 cover, and any damage or injury caused by the ground  
1211 cover.

1212 However, ground cover in a public right-of-way adjacent to the  
1213 owner's property must not be planted where it will reduce public  
1214 safety or impede travel.

1215 (2) In this subsection, property owner or owner includes each person  
1216 with a legal interest in the property and any successor to that  
1217 person's interest.

1218 [(3) The Director of Transportation, after consulting the Directors of  
1219 Environmental Protection and Permitting Services, must issue  
1220 guidelines that allow and encourage a property owner to place and  
1221 maintain ground cover in the public right-of-way adjacent to the

1222 owner’s property. The guidelines must encourage use of ground  
1223 cover that is environmentally sensitive and promotes conservation  
1224 of natural resources and more sustainable landscaping, including  
1225 plant species that:

1226 (A) require reduced or no mowing, fertilizing, or other  
1227 maintenance;

1228 (B) are drought tolerant and require little watering at any time;

1229 (C) do not inhibit growth of nearby trees; and

1230 (D) include non-turf grasses.]

1231 (3) The County Executive must adopt Method (3) regulations that  
1232 define the design and maintenance standards applicable to this  
1233 Section.

1234 (4) Except as provided in paragraph (1), this subsection does not  
1235 impair the County’s right to enter, maintain, occupy, or otherwise  
1236 control any public right- of-way for any purpose.

1237 [(1)](k) *Curbs and gutters.*

1238 \* \* \*

1239 **Sec. 49-34. Construction by County.**

1240 (a) The County must not construct any road unless:

1241 (1) the County has previously acquired the right-of-way for the road,  
1242 or the right-of-way has been dedicated to public use by appropriate  
1243 recording in the County land records; and

1244 (2) the cost of the road will be charged against the benefitted property  
1245 in according with Sections 49-51 to 49-62 and subsection [(b)] (c)  
1246 of this Section.

1247 \* \* \*

1248 (e) The County Executive may authorize the construction of [shared use  
1249 paths] sidepaths or sidewalks to serve general community needs.  
1250 Whenever a sidewalk or [shared use path] sidepath is built in a right-of-  
1251 way where there is no pavement or other road construction, building the  
1252 sidewalk or [shared use path] sidepath does not mean that the County is  
1253 responsible for maintaining any part of the right-of-way except the  
1254 sidewalk or [shared use path] sidepath.

1255 **Sec. 49-35. Right-of-way permit.**

1256 (a) (1) A [person must not construct any road, sidewalk, shared use path,  
1257 curb and gutter, driveway, or drainage structure; begin any such  
1258 construction (including clearing, grading, and tree cutting); or  
1259 perform any tree work on any roadside tree (including removing a  
1260 stump on a County right-of-way), without a permit] permit is  
1261 required from the Director of Permitting Services for any work  
1262 within the public right-of-way. Any permit issued for roadside tree  
1263 work must comply with Section 49-36A. In this Article, “roadside  
1264 tree” means any plant that has a woody stem or trunk which grows  
1265 all, or in part, in the right-of-way of any County public road.

1266 (2) In this Section and Sections 49-36, 49-36A, and 49-37, unless  
1267 otherwise specified, Director refers to the Director of Permitting  
1268 Services and Department refers to the Department of Permitting  
1269 Services.

1270 (3) [A person must apply for a permit on] Permit applicants must use  
1271 forms prescribed by the Director, submit detailed plans and  
1272 specifications, and include locations and record plats approved by  
1273 the Department and the Planning Board.

1274 (4) If the proposed activity requires a sediment control permit, the  
1275 Department must issue the permit before any activity occurs under  
1276 a permit issued under this subsection. The State Highway  
1277 Administration must approve any action under its jurisdiction  
1278 before the Director may approve the permit.

1279 (5) As a requirement to issue a permit under this Section, the Director  
1280 may require the applicant to designate and bond a haul route for  
1281 construction materials, as described in Section 49-8.

1282 (b) The Director must collect a fee, set by Method 3 regulation, for each  
1283 right-of-way permit application. However, the Director must not collect  
1284 a fee for any permit to:

1285 (1) remove or prune a tree that endangers a person or property;

1286 (2) remove a stump in the right-of-way; [or]

1287 (3) plant a tree; or

1288 [(3)](4) install a sign identifying a geographic area in the right-of-way if:

1289 (A) the primary applicant is an unincorporated or non-profit  
1290 civic or homeowners' organization that is either:

1291 (i) listed on the Planning Board's most recent list of  
1292 civic and homeowners associations; or

1293 (ii) exempt from federal income taxes and shows that its  
1294 annual revenue during its most recent fiscal year did  
1295 not exceed an amount set by a regulation;

1296 (B) in a homeowners' association, maintenance responsibility  
1297 of all common areas has been transferred from the  
1298 developer; and

1299 (C) the proposed sign would be smaller than a maximum size  
1300 set by regulation.

1301 (c) Before an applicant begins any road, sidewalk, sidepath, bikeway, curb  
 1302 and gutter, driveway, retaining wall, steps, or drainage project, on a road  
 1303 or within the boundaries of a dedication to public use, the applicant for a  
 1304 permit to undertake any such project must pay to the County an inspection  
 1305 and engineering fee set by the County Executive by [method] Method (3)  
 1306 regulation.

1307 (d) If any such project is solely a grading project, the applicant must pay an  
 1308 inspection and engineering fee to the County if Department staff does the  
 1309 engineering work on the project and an inspection fee if the applicant  
 1310 submits the engineering work.

1311 (e) Any violation of this Section is a Class A violation.

1312 (f) The Director must refund half the fees required by this Section to the  
 1313 applicant if a permit is rejected or withdrawn before construction begins.  
 1314 If an applicant proposes to undertake a project using materials, standards,  
 1315 or specifications superior to those required under this Article, the fees  
 1316 charged must be computed on the estimated cost of the project as if it met  
 1317 those requirements.

1318 (g) A person, including any utility corporation, must not cut [a road] within  
 1319 the right-of-way to install, replace, or maintain or connect any  
 1320 underground gas, electric power, or telephone line, or any other  
 1321 underground infrastructure, without a permit from the Director. The  
 1322 Director must supervise all backfilling and repaving of utility trenches to  
 1323 assure that the permittee complies with all applicable specifications. The  
 1324 permittee must restore the right-of-way to its prior condition.

1325 \* \* \*

1326 **Sec. 49-36. Permit conditions and procedures.**

1327 Each permit issued under Section 49-35 must be subject to the following  
1328 conditions[, which the permit must specify]:

1329 \* \* \*

1330 **Sec. 49-36A. Roadside tree work.**

1331 \* \* \*

1332 (b) *Applicability; exceptions.*

1333 (1) A person [(including a government agency)] may receive a right-  
1334 of-way permit to perform tree work on a roadside tree if the person:

1335 \* \* \*

1336 **Sec. 49-37. Street and road bonds.**

1337 \* \* \*

1338 (d) (1) If the Director finds a violation of an applicable law or regulation,  
1339 or a default in the performance of any term or condition of the  
1340 permit or accepted security, the Director must give written notice  
1341 of the violation or default to the principal and to the surety of the  
1342 accepted security. The notice must specify the work to be done,  
1343 the estimated cost of the work, and the period of time the Director  
1344 finds reasonably necessary to complete the work.

1345 (2) If a cash bond has been posted, the Director must give notice of  
1346 default to the principal; and if compliance is not [achieved]  
1347 achieved within the time specified, the Director may, without delay  
1348 and without further notice or proceedings, use the cash deposited,  
1349 or any portion of the deposit, to cause the required work to be  
1350 performed by contract or otherwise in the Director’s discretion.  
1351 After any default in the performance of any term or condition of  
1352 the permit or accepted security, the County, the surety, and any



1353 person employed or engaged on their behalf may enter the site to  
1354 complete the required work.

1355 \* \* \*

1356 **Sec. 49-38. Acceptance of roads.**

1357 \* \* \*

1358 (b) Any action by the County to accept a road must be in writing and fully  
1359 identify the portion accepted. Any accepted road must conform to [the  
1360 standards and specifications of] this Chapter and all other applicable laws  
1361 in force at the time of acceptance.

1362 \* \* \*

1363 **Sec. 49-39. Pre-acceptance review by County.**

1364 \* \* \*

1365 (b) After completion and final inspection of a road, the County must either  
1366 accept the road, if the Director of Permitting Services finds that its  
1367 construction has met all requirements of this Article, and release the bond,  
1368 or the Director must reject the road by written notice to the permittee and  
1369 surety, where an acceptable security was posted, specifying the reasons  
1370 for rejection by reference to the particular requirement which has been  
1371 violated, and allow a specified reasonable time for the permittee or surety  
1372 to comply with all applicable [requiements] requirements.

1373 \* \* \*

1374 **Sec. 49-40. Waivers of requirements of Article.**

1375 (a) The Director of Permitting Services may waive any requirement of this  
1376 Article for sidewalks, bikeways, rights-of-way widths, grade percentages,  
1377 full-width grading, and the construction of both roadways of a dual road,  
1378 or any combination of them, as allowed in this Section, for any road  
1379 constructed by the County or a permittee.

1380 (b) The Director must apply the following standards for granting or denying  
1381 waivers:

1382 (1) *Sidewalks and Sidepaths.*

1383 (A) *Waiver authority.* The Director, after consultation with the  
1384 staff of the Planning Board, may waive any requirement,  
1385 subject to (B), to install sidewalks or sidepaths if:

1386 (i) the lots abutting the right-of-way are unimproved;

1387 (ii) the street was lawfully graded before August 15,  
1388 1950, and the terrain is so steep and uneven that  
1389 grading for sidewalks or sidepaths cannot be done  
1390 except at excessive cost, or

1391 (iii) houses or buildings abutting the right-of-way which  
1392 were constructed before August 15, 1950, are so  
1393 situated, and the property upon which those houses  
1394 or buildings are located is so graded, that the  
1395 construction of sidewalks or sidepaths is undesirable.

1396 (B) *Waivers not allowed.* [Notwithstanding the preceding  
1397 subparagraph, the] The Director [may] must deny a waiver  
1398 if:

1399 (i) the street involved is [a Primary Residential Street]  
1400 an Area Connector, Neighborhood Connector,  
1401 Industrial Street, [Business District Street, Minor  
1402 Arterial or Arterial, Major Highway] Downtown  
1403 Street, Town Center Street, Downtown Boulevard,  
1404 Town Center Boulevard, Boulevard, or Controlled  
1405 Major Highway; or

1406 (ii) the required sidewalks or bikeways are necessary or  
 1407 desirable to provide safe access for pedestrians and/or  
 1408 bicyclists.

1409 (C) *Waiver and fee payment.* As an alternative to building a  
 1410 sidewalk or bikeway on an existing or proposed street, the  
 1411 Director ~~[[may allow]]~~ must require an applicant to pay a  
 1412 fee if the applicant shows that building a sidewalk or  
 1413 bikeway as required would cause extreme hardship or if the  
 1414 Director finds that it would cause significant environmental  
 1415 impact. The sidewalk or bikeway that would be waived  
 1416 must not connect to another existing or proposed sidewalk,  
 1417 [shared use path] bikeway, bus stop, school, or other public  
 1418 [faciity] facility. The fee must equal the full cost to build the  
 1419 sidewalk or bikeway, including the design and supervision  
 1420 costs. This fee must be paid, any necessary right-of-way  
 1421 must be dedicated, and any necessary perpetual easement  
 1422 must be recorded before the Director issues any road  
 1423 construction permit for the proposed public street. The  
 1424 revenue from these fees must be assigned to a capital  
 1425 account for sidewalk or bikeway construction and may be  
 1426 spent as appropriated by the County Council.

1427 \* \* \*

1428 (4) *Full-width grading.* The Director may waive or reduce any  
 1429 requirement for full-width grading if:

1430 \* \* \*

1431 (C) for a [Secondary Residential or Tertiary Residential]  
 1432 Neighborhood Street or Neighborhood Yield Street, the

1433 applicant proposes to extend an existing paved road which  
 1434 ends short of an intersection, the right-of-way containing the  
 1435 existing paved road is not graded to its full width and the  
 1436 waiver does not apply beyond the intersection.

1437 \* \* \*

1438 **ARTICLE 4. ACQUISITION OF LAND.**

1439 **Sec. 49-45. Authority to acquire land for transportation purposes.**

1440 The County may buy land which is needed in connection with:

- 1441 (a) the opening of any new road, [shared use path] bikeway, or
- 1442 sidewalk,

1443 \* \* \*

1444 **Sec. 49-50. Optional method of condemnation of land for streets or roads.**

1445 As authorized by Section 40A of Article III of the Maryland Constitution, the  
 1446 County may acquire any land or interest in land required for a right-of-way for  
 1447 a County road or street by using the following procedure:

1448 \* \* \*

- 1449 (b) (1) Promptly after being appointed, the broker or appraiser must
- 1450 estimate the fair market value of the property or interest and submit
- 1451 a written report to the County.

- 1452 (2) The County then may be petition, naming the owner and all
- 1453 persons of record whose interest in the property would be taken,
- 1454 pay to the Circuit Court the amount estimated by the broker or
- 1455 appraiser to be the fair market value of the property, and record a
- 1456 copy of the resolution of taking in the County land records. A copy
- 1457 of the resolution must be attached to the petition and filed with the
- 1458 Circuit Court. A copy of the petition and resolution must be
- 1459 [served on] sent to each person named in the petition.

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**ARTICLE 5. COUNTY ROADS – AUTHORITY AND FUNDING.**

**Sec. 49-51. [Definitions] Reserved.**

[As used in this Article:

*Construction* means construction or reconstruction (but not maintenance), and includes grading, installation of drainage structures, and paving.

*Road:* includes any road, street, highway, avenue, lane, alley, bridge, shared use path, sidewalk, viaduct, and any related storm drain and stormwater management facility.]

\* \* \*

**Sec. 49-53. Public hearing; notice.**

\* \* \*

(e) The Director need not hold a hearing under subsection (d) before a sidewalk or [shared use path] sidepath is constructed if:

\* \* \*

**Sec. 49-57. Roads partly in unincorporated area and partly in city or town.**

(a) *Building roads.*

(1) If a road, bridge, storm drain, sidewalk, [shared use path] sidepath, transitway, or other transportation facility is located partly in the unincorporated area of the [county] County and partly in a municipality or special taxing district that is authorized by law to build or maintain that part of the facility that is located in the municipality, either the County or the municipality or special taxing district may improve the entire facility according to applicable County laws or any law or regulation that applies in the municipality or special taxing district, respectively, as if the facility

1486 were completely located in the unincorporated area of the [county]  
1487 County or in the municipality or special taxing district.

1488 \* \* \*

1489 (3) The County may build or improve a road, bridge, storm drain,  
1490 sidewalk, [shared use path] sidepath, bikeway, transitway, or other  
1491 transportation facility which it is authorized by law to construct  
1492 and maintain, including when the facility is located partly or  
1493 entirely in a municipality or special taxing district. Before taking  
1494 any action under this paragraph, the Executive must consult each  
1495 affected municipality.

1496 \* \* \*

1497 **ARTICLE 6. ABANDONMENT AND CLOSING OF RIGHTS-OF-WAY.**

1498 **Sec. 49-62. Abandonment authority; scope of Article; procedures.**

1499 (a) *Authority.* The County Council, by adopting a resolution, may close to  
1500 public use or abandon the County’s right to use any right-of-way. As  
1501 used in this Article, *right-of-way* means any road, [street, alley,  
1502 crosswalk, pedestrian walkway, shared use path] sidewalk, bikeway,  
1503 crosswalk, water main, sanitary sewer, storm sewer, or storm drainage  
1504 right-of-way used at any time by the public, including use by pedestrians  
1505 and bicyclists. This Article applies to all rights-of-way except as  
1506 provided in subsection (j) and State road rights-of-way, and may apply to  
1507 a State road right-of-way if the appropriate State agency expressly  
1508 consents. Before the Council adopts a resolution under this Article, the  
1509 procedures in this Article must be followed.

1510 \* \* \*

1511 (h) *Agencies.* The government agencies and other parties from which the  
1512 Executive must solicit a response are:

- 1513 (1) the Department of Transportation;
- 1514 (2) the Department of Permitting Services;
- 1515 [(2)](3) the Maryland-National Capital Park and Planning Commission;
- 1516 [(3)](4) the Washington Suburban Sanitary Commission, if any part of
- 1517 the right-of-way is located in the Washington Suburban Sanitary
- 1518 District;
- 1519 [(4)](5) each public utility authorized by the Public Service Commission
- 1520 to operate in the area and which has any overhead or underground
- 1521 facilities in the vicinity;
- 1522 [(5)](6) the governing body of each incorporated municipality or special
- 1523 taxing district in which any of the right-of-way is located;
- 1524 [(6)](7) [The] the Police Department;
- 1525 [(7)](8) the County Fire and Rescue Service; and
- 1526 [(8)](9) [Any] any grantee of a franchise under Article 2, if the franchise
- 1527 authorizes the grantee to install or use any facility in, over, or under
- 1528 the affected right-of-way.

1529 (i) *Temporary closure.* This Article does not apply to any temporary closure  
 1530 required by a construction traffic control plan if the closure does not last  
 1531 longer than 12 months. If special circumstances require that a temporary  
 1532 closure last longer than 12 months, the Director of Transportation must  
 1533 apply to the Council for approval to extend the closure [for a specified  
 1534 period that does not exceed 24 months]. The Council, by resolution, may  
 1535 approve an extended temporary closure under this subsection without  
 1536 following the procedures in this Article.

\* \* \*

**ARTICLE 8. RUSTIC ROADS PROGRAM.**

\* \* \*

1540 **Sec. 49-77. Definitions.**

1541 In this Article, the following terms have the meanings indicated:

1542 *Committee* means the Rustic Roads Advisory Committee.

1543 *Exceptional rustic road* means an existing public road or road segment which is  
1544 so classified under Section 49-78.

1545 [*Master Plan of Highways* means the Master Plan of Highways Within  
1546 Montgomery County, an amendment to the General Pan for the Physical  
1547 Development of the Maryland-Washington Regional District.]

1548 *Public utility* means any private company or public agency that is regulated as  
1549 a public utility under state law, or otherwise provides water, sewer, electric, gas,  
1550 telephone, or cable service (as defined in Chapter 8A) in the County.

1551 *Rustic road* means an existing public road or road segment which is so classified  
1552 under Section 49-78.

1553 **Sec. 49-78. Rustic road classification and reclassification.**

1554 (a) *Classification.* The County Council may classify, reclassify, or revoke  
1555 the classification of an existing public road or road segment as a rustic  
1556 road or an exceptional rustic road by approving an amendment to the  
1557 [Master Plan of Highways] functional plan and the relevant area [Master  
1558 Plan] master plan.

1559 \* \* \*

1560 (b) *Criteria for rustic road.* Before classifying a road as rustic, the  
1561 Council must find that an existing public road or road segment:

1562 \* \* \*

1563 (5) the history of vehicle and pedestrian [[accidents]] crashes on  
1564 the road in its current configuration does not suggest unsafe  
1565 conditions.

1566 \* \* \*



1567 **Sec. 49-80. Rustic Roads Advisory Committee.**

1568 \* \* \*

1569 (f) *Advocacy.* The [[Commission]] Committee must not engage in any  
1570 advocacy activity at the State or federal levels unless that activity is  
1571 approved by the Office of Intergovernmental Relations.

1572 \* \* \*

*Approved:*

s/ \_\_\_\_\_ 10/26/2022  
Gabriel Albornoz, President, County Council Date

*Approved:*

\_\_\_\_\_  
Marc Elrich, County Executive Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Judy K. Rupp, Clerk of the Council Date

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