

Bill No. 48-06
Concerning: Streets and Roads -
Comprehensive Revision
Revised: 7-3-07 Draft No. 12
Introduced: December 12, 2006
Enacted: July 3, 2007
Executive: July 15, 2007
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Ch. 8, Laws of Mont. Co. 2007

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Floreen, Council President Praisner,
and Councilmembers Trachtenberg and Ervin

AN ACT to:

- (1) comprehensively revise, update, clarify, and reorganize County law governing street and road design, construction, regulation, acceptance, abandonment, and funding; and
- (2) repeal obsolete provisions in and generally amend County law regarding streets and roads.

By amending

Montgomery County Code
Chapter 49, Streets and Roads

By adding

Chapter 32, Offenses – Victim Advocate
Section 32-20A

Boldface	<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:

28 (c) Any [person violating any provision] violation of this [section] Chapter
 29 or any [rule,] regulation [or ordinance of the council passed pursuant
 30 hereto shall be subject to punishment for] issued under it is a Class B
 31 violation [as set forth in section 1-19 of chapter 1 of the County Code],
 32 except when expressly provided otherwise. [Each day's violation shall
 33 constitute a separate offense.]

34 **[49-3. Same-Enforcing compliance in equity.**

35 In addition to other methods of enforcing compliance with the rules,
 36 regulations and ordinances, referred to in the preceding section, the county shall have
 37 the right to apply to the courts of equity of the state for an injunction to enforce
 38 compliance therewith. In such case it shall not be necessary to make other
 39 jurisdictional averment than the threatened breach of such rules, regulations or
 40 ordinances. The courts shall have jurisdiction to grant such injunctions on such
 41 allegations being made.]

42 **[49-8] 49-2. Resolving doubt as to location[, etc.,] of [county] County roads.**

43 (a) Whenever any doubt exists as to the proper location or width of a
 44 [county] County road, the [county] Director of Public Works and
 45 Transportation may cause the [same] road to be surveyed and a
 46 description and plat made [thereof] of it and recorded or filed [among
 47 its] in the County land records, [, which] This description and plat
 48 [shall] must be [deemed official and prima facie] treated as correct by
 49 [such county] the County and in the State courts [of this state] until [and
 50 unless the contrary be proven] shown to be incorrect.

51 (b) Whenever possible, [such] this description [shall] must be made by
 52 reference to the original description of the road when [the same] it was
 53 acquired by grant or condemnation, if [such] the original description can
 54 be found[, but if same]. If the original description cannot be found, then

55 [such] the description and plat [shall] must be made of [such] the road
 56 as actually laid out [and existing].

57 (c) The total cost of any necessary survey must be paid by the party that
 58 requested the survey. The total cost of a survey includes field
 59 preparation work, field surveys, office work, plat preparation, and
 60 recording time and fees.

61 **[49-26] 49-3. Authority [of county executive] to classify road repairs.**

62 The [county executive is hereby given the authority to determine] Director of
 63 Public Works and Transportation may decide whether a given road repair job should
 64 be [classed] classified as maintenance or [as] construction [pursuant to the provisions
 65 of the road construction code in force at the time] under this Chapter.

66 **[49-6] 49-4. [[Participation in cost of private developments]] Public-private**
 67 **participation.**

68 The [county executive] County Executive, on behalf of the [county] County,
 69 may [enter into a written] contract with any person, who is [engaged in promoting]
 70 building a real estate development or subdivision in the County, to participate in the
 71 cost of any street, sidewalk, bikeway, gutter, curb or drainage construction,
 72 landscaping, traffic control device, or placement of utilities or amenities in a [public]
 73 street or road dedicated to [the] public use.

74 **[49-9] 49-5. Right to drain dedicated roads without liability to abutting owners.**

75 [In all cases where roads are] If any road is dedicated to the use of the public
 76 by a private grant, [such grants shall be taken to carry with them] the grant must
 77 include the right at all times to properly drain [such highways] the road without
 78 liability of the County to any abutting [owners] owner for [injuries occasioned in
 79 consequence thereof] any resulting injury.

80 **[49-10] 49-6. Roads used for [twenty] 20 years may be declared public**
 81 **highways.**

82 (a) Whenever any road [shall have] has been [in use] used by the public for
 83 [twenty (20)] 20 or more years, though the [same] road may never have
 84 been condemned or granted as a public highway, the [county executive]
 85 County Executive may by [written] Executive order published in the
 86 County Register declare the road to be a public highway.

87 (b) The public right-of-way of a road declared as a public highway under
 88 subsection (a) must include permanent maintenance easements which
 89 extend 10 feet beyond each pavement edge.

90 **[49-5. Appropriations from any source authorized; expenditures.]**

91 [The council shall have the power to appropriate and the county executive
 92 shall have the power to expend any revenue accruing to the county, or any taxes
 93 which the council in its discretion shall deem necessary to levy, without limitation as
 94 to amount, for the construction, reconstruction, maintenance, improvement or
 95 drainage of streets, roads or highways in any part of the County.]

96 **[49-4] 49-7. Authority of [citizens' committees of] special taxing [areas] districts**
 97 **to regulate [construction, maintenance, etc., of] streets and roads.**

98 (a) [The citizens' committee of any special taxing area,] Any special taxing
 99 district which [committee] has the authority [and duty] to pave and
 100 maintain streets[,] and roads [or other highways in its area, is hereby
 101 authorized to adopt, and from time to time, change] may adopt and
 102 amend reasonable regulations [and orders] under method (2) [of section
 103 2A-15 of this Code with reference to the proper] governing the
 104 construction, maintenance, improvement, grading, and repairing of the
 105 roads[, lanes,] and streets[, alleys, avenues, bridges or other highways in
 106 taxing areas] in the district, including those dedicated for public use.
 107 [Thereafter no public road, lanes, street, alley, avenue, bridge or other
 108 highway within such special taxing area, including those dedicated for

109 public use, shall be constructed, repaired, graded, improved or
 110 maintained by any person, association or corporation unless such
 111 construction, repairing, improvement, grading or maintenance comply
 112 in all particulars with such regulations and orders.]

113 (b) In adopting [such] regulations [and orders], the [aforesaid citizens'
 114 committee] special taxing district may, by resolution, [adopt all or part
 115 of the regulations and orders promulgated by the county council of
 116 Montgomery County for the construction, maintenance, improvement,
 117 grading and repairing of the county roads, lanes, streets, alleys, avenues,
 118 bridges or other highways] incorporate any similar County regulation.

119 [(c) Any [person, association or corporation violating any provisions]
 120 violation of [this section or] any regulation [or order of any citizens'
 121 committee passed pursuant hereto shall be subject to punishment for]
 122 adopted under this Section is a class B violation [as set forth in section
 123 1-19 of chapter 1 of this Code. Each day's violation shall constitute a
 124 separate offense].]

125 [49-7] **49-8. [Permit required for grading, etc., projects; fee] Restoration of**
 126 **public right-of-way.**

127 [Before any street, sidewalk, gutter, curb, grading project or drainage project
 128 may be begun on a county road or street or within the boundaries of a dedication to
 129 the public use, the applicant for a permit to undertake any such project shall pay to
 130 the county, as an inspection and engineering fee, such fee as may be provided by
 131 written regulation of the county executive adopted under method (3) of section 2A-15
 132 of this Code, for the construction of any such street, sidewalk, gutter, curb, grading
 133 project or drainage project.

134 Any person who violates any provision of this section shall, upon conviction,
 135 be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more
 136 than one (1) year, or both, for each offense.]

137 (a) The Director of Permitting Services may require any applicant for a
 138 construction permit which includes a haul route to provide bonding for
 139 the restoration, after construction is finished, of any existing
 140 improvement in the public right-of-way.

141 (b) The Director may require this bonding when the applicant is likely to
 142 deliver or remove [[large amounts of]] construction materials to or from
 143 a proposed work site.

144 (c) The applicant must identify each proposed haul route from the work site
 145 to [[an arterial or higher classified roadway]] a major highway.

146 **[49-16] 49-9. Removal of [trees, bushes, etc.,] items that obstruct the vision**
 147 **of motorists on public highways or interfere with the use of public rights-of-way.**

148 (a) *Notice to owner of property.* [Whenever] If the Director of [the
 149 Department of] Public Works and Transportation finds that any tree,
 150 bush, vine, undergrowth, or other obstruction, except a building or
 151 similar structure affixed to the ground, on private property [that] poses a
 152 threat to public safety by obstructing the vision of operators of vehicles
 153 traveling on any public street, road, or highway, interfering with the
 154 public rights-of-way as a traffic hazard, limiting access by Fire and
 155 Rescue Service vehicles, or restricting the use by pedestrians or
 156 bicyclists of the public rights-of-way, the Director [[immediately]]
 157 promptly must serve on the owner, agent, lessee or any other person
 158 supervising the property a written notice that:

159 (1) describes where the obstruction exists;

- 160 (2) describes how the obstruction impairs the vision of operators of
 161 vehicles, including bicycles, or impedes pedestrian or legal
 162 bicycle travel ~~[[upon]]~~ on the right-of-way;
- 163 (3) describes the steps necessary to correct such conditions; and
- 164 (4) directs the person receiving the notice to take corrective steps
 165 within a stated period of time.
- 166 (b) *Petition for hearings[; hearings generally, etc].* Any person [who
 167 considers himself] aggrieved by any order issued [pursuant to the
 168 authority of] under this Section may, within [ten (10)] 10 days [of the
 169 receipt of such] after receiving the order, petition in writing for a
 170 hearing [hereon] before the [board of appeals] Board of Appeals.
 171 Within [thirty (30)] 30 days [from the receipt of such] after receiving a
 172 petition, the [board shall] Board must hold [such] a hearing. [after
 173 which it] The Board may [either] affirm, modify or rescind the order.
 174 ~~[[No]]~~ [official of the County government shall] The County ~~[[agent~~
 175 may]] must not remove any obstruction or enforce any order issued
 176 [hereunder] under this Section until [after such hearing has been held]
 177 either:
- 178 (1) the Board has affirmed the order; or [until]
- 179 (2) the time to petition for [such] a hearing has expired [without such
 180 a] and no petition [having been] was filed.
- 181 (c) *Effect of failure to remove obstructions.* When any person does not
 182 comply with any order issued under this Section within the time
 183 specified in the order, the Director of [the Department of] Public Works
 184 and Transportation must remove all or part of the obstruction as
 185 necessary to eliminate the ~~[[traffic]]~~ hazard or ~~[[the pedestrian or~~

186 bicycle]] impediment. [The Director] An agent of the Department may
 187 enter the property to [carry out] take this [requirement] action.

188 (d) *Service of orders and notices.* All orders and notices issued [by the
 189 County pursuant to the authority of] under this Section [shall] must be
 190 served on the person to whom they are directed either by registered
 191 [mail] or certified mail or by personal delivery [to such person]. If
 192 [such] that person is not known to reside and cannot be found in the
 193 County, [such] service [shall] may be made by [publication of such]
 194 publishing the order or notice once in a newspaper of general circulation
 195 in the County and by posting [the same] it on the premises in a
 196 conspicuous manner. Service by publication and posting [shall be
 197 deemed to be made] is completed on the day of publication or posting.

198 (e) *Cost of removal when done by the Department.* Whenever the
 199 Department eliminates an obstruction under this Section, the Director
 200 must file with the Department of Finance a certified statement of the
 201 cost to the County of eliminating the obstruction, together with proof of
 202 service of the notice [described in] required by subsection (a). The cost
 203 certified to the Department of Finance and any cost of publishing the
 204 notice [referred to in] under subsection (a) constitutes a charge and lien
 205 against the property that the County must collect in the same manner as
 206 the County collects real estate taxes.

207 [(f) *Penalty.* Any person who violates any provision of this section shall be
 208 subject to punishment for a class B violation as set forth in Section 1-19
 209 of Chapter 1 of the County Code. Each day of violation shall be deemed
 210 a separate offense.]

211 **[49-17] 49-10. Obstruction of public rights-of-way.**

212 Except as provided in Section [49-18] 49-11, in the public right-of-way,
 213 [including any sidewalk in the public right-of-way,] a person must not:

214 (a) do any reconstruction or maintenance work; or

215 (b) erect or place any structure, fence, post, rock, or other object in the
 216 right-of-way, except:

217 (1) [rural delivery] mail boxes mounted on a support that will bend
 218 or break away on impact by a vehicle;

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

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

222 [(3)] (4) ground cover placed and maintained under Section [49-35(k)]
 223 49-33(k);

224 [(4)] (5) a temporary, removable obstruction or occupation of a right-of-
 225 way installed under [[written agreement with the Director of
 226 [Department of] Permitting Services]] a permit issued under
 227 Section 49-11; or

228 [(5)] (6) as otherwise permitted by law.

229 Any object placed in the public right-of-way under this subsection must not
 230 unreasonably impede use of a sidewalk or other right-of-way by pedestrians or
 231 persons in wheelchairs, or impede or endanger automobiles or other vehicles.

232 **[49-18] 49-11. Permit [for obstruction of] to obstruct public rights-of-way.**

233 (a) [[Except as otherwise provided in]] Unless this Section prohibits the
 234 issuance of a permit, the Director of Permitting Services may issue a
 235 permit to:

236 (1) reconstruct or repair a sidewalk, shared use path, driveway, curb,
 237 or other structure; [or]

- 238 (2) install, repair, locate, or replace underground utilities[, pipes,] or
- 239 [[lines] infrastructure under a sidewalk or shared use path].]; or
- 240 (3) install a temporary, removable obstruction or occupation of a
- 241 right-of-way[[, such as tables at a sidewalk cafe]]; or
- 242 ~~[[3]]~~ (4) close a curb lane, sidewalk, or shared use path in conjunction
- 243 with the construction or reconstruction of an abutting [[building]]
- 244 structure.

(b) ~~[[Except as otherwise provided in this Section the]]~~ The Director [of Permitting Services] must not issue a permit for reconstruction or repair of a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use path for work on an abutting structure, utilities, [, pipes,] or [lines] infrastructure for more than 15 days, unless a safe alternate walkway or shared use path is provided on the same side of the street:

- 252 (1) in a [Central Business District] Metro Station Policy Area, Town
- 253 Center Policy Area, or other area expressly identified in a
- 254 Council resolution;
- 255 (2) within 20 feet of a bus stop or mass transit station entrance; or
- 256 (3) on a road:
 - 257 (A) designated as a major or arterial highway;
 - 258 (B) of 4 lanes or more; or
 - 259 (C) designated as a business district street.

260 The Director may allow a covered walkway to serve as an alternate

261 walkway.

(c) The Director [of Permitting Services] may issue a permit ~~[[for reconstruction]]~~ to rebuild or repair ~~[[of]]~~ a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use

265 path for work on abutting structures, utilities, [, pipes,] or [lines]
 266 infrastructure for more than 15 days, without requiring that a safe
 267 alternate [walkway] sidewalk or shared use path be provided on the
 268 same side of the street, if the Director finds that:

269 (1) based on a certification submitted by a professional engineer,
 270 construction of such a [walkway] sidewalk or shared use path is
 271 not possible; or

272 (2) [[an alternate [walkway] sidewalk or shared use path on the other
 273 side of the street is more convenient to pedestrians or bicyclists;
 274 or]]

275 [[3]] the street is closed.

276 (d) The Director [of Permitting Services] may grant one extension for no
 277 more than 15 days of a permit to close a roadway lane, sidewalk, or
 278 shared use path for work on abutting structures, utilities, [, pipes,] or
 279 [lines] infrastructure without requiring that a safe alternate walkway or
 280 shared use path be provided on the same side of the street on a showing
 281 of extreme hardship.

282 (e) The Director [of Permitting Services] must not issue [[a]] or extend in
 283 duration or area any permit to close a sidewalk or shared use path [[for
 284 the purpose of]] to use the area for vehicle parking or storage of
 285 construction materials [[on the sidewalk or shared use path]].

286 (f) The Director [of Permitting Services] must include conditions in each
 287 permit to [[insure the]] assure public safety in the work area.

288 (g) Before the Director issues a permit under this Section to close a
 289 sidewalk, curb lane, or shared use path, the Director of Public Works
 290 and Transportation must approve a temporary traffic control plan. A
 291 professional engineer must certify for the applicant that the plan

292 minimizes inconvenience to the public, provides necessary warnings,
 293 and includes safe and reasonable pedestrian alternatives in accordance
 294 with accepted engineering standards.

295 ~~[(g)]~~(h) A permittee must have a valid franchise ~~[[agreement with]],~~ as
 296 defined in Section 49-20, ~~[[from the County, or a franchise from the~~
 297 State,]] before the permittee installs, repairs, or maintains any utility or
 298 infrastructure in the public right-of-way.

299 **[49-19] 49-12. [Same-] Exemptions from [sections 49-17 and 49-18] Sections**
 300 **49-10 and 49-11.**

301 (a) [The provisions of sections 49-17 and 49-18 shall] Sections 49-10 and
 302 49-11 do not apply to, and no permit [provided for herein shall be]
 303 under those Sections is required of, any [incorporated] municipality,
 304 special taxing [[area]] district, or [governmental] government agency
 305 [having lawful authority] authorized by law to construct streets, roads,
 306 sewers, or drainage facilities [within the county;] in the County. [nor]
 307 However, Sections 49-10 and 49-11 apply to any road that is located in
 308 a municipality and owned or maintained by the County.

309 (b) Sections 49-10 and 49-11 do not apply to [vehicles of] any vehicle
 310 operated by a fire [departments, public utilities or first-aid services]
 311 department, public utility, or first aid provider, while that vehicle is
 312 being used to provide [engaged in] emergency services.

313 **[49-20] 49-13. [Same-] Penalty for violation of [sections 49-17 to 49-19, etc]**
 314 **Sections 49-10 and 49-11.**

315 Any [person who violates any provision] violation of [sections 49-17 to 49-19]
 316 Sections 49-10 and 49-11 or [the provisions of] any permit granted under [this article
 317 shall be] those Sections is [subject to punishment for] a Class A violation [as set forth

318 in section 1-19 of chapter 1 of the County Code]. [Each day that such violation
319 continues shall be deemed to constitute a separate offense.]

320 **[49-21] 49-14. [Deposit] Debris [of articles] likely to injure [man, beast]**
321 **persons, animals, or [tires of] vehicles; penalty].**

322 [Any] A person [who shall deposit, place, or leave in or upon] must not place
323 or leave in or on any public highway[,], or [on any of the streets of any town or
324 village in the county] street, any [glass, crockery, nails, tacks, tin or iron cuttings,
325 hoops, wagon tires or other article or thing,] debris liable to [wound or injure man or
326 beast] cause injury or [cause] damage to any vehicle[,], or [to any] personal
327 property[,]. [shall be subject to punishment for] Any violation of this Section is a
328 Class C violation [as set forth in section 1-19 of chapter 1 of the County Code].

329 **[49-24] 49-15. Accumulations of [earth,] soil or foreign material on roads**
330 **prohibited; penalty].**

331 (a) [Any] A person [who,] must not, personally or by [his action or the
332 action of his agents, servants or employees, shall] an agent or employee:

333 (1) cause or permit earth, soil, mud, or other foreign material to be
334 deposited [in any manner upon the surface of] on any public
335 right-of-way [in the county], including any public road, street,
336 alley, sidewalk, bikeway, or parking area, or [to be deposited] in
337 any drain or ditch designed to carry surface water from any
338 public right-of-way, whether [such] the material is spilled,
339 dropped, placed, washed, or tracked from [the wheels of
340 vehicles,] a vehicle; and [who shall]

341 (2) fail to remove immediately from [such] the right-of-way or drain
342 or ditch the material [so] deposited. [, shall be subject to
343 punishment for a class C violation as set forth in section 1-19 of

344 chapter 1 of the County Code. Each day a violation continues to
 345 exist shall constitute a separate offense.]

346 (b) [Any] A person [owning or occupying] who owns or occupies land
 347 contiguous to any public right-of-way [in the county], including any
 348 public road, street, alley, sidewalk, bikeway, or parking area, or
 349 contiguous to any drain or ditch designed to carry surface water from a
 350 public right-of-way, [who] knowing that earth, soil, mud, or any other
 351 foreign material has been spilled, dropped, washed, or tracked from
 352 [such] that land onto [such] a right-of-way or into [such] a drain or
 353 ditch, [shall fail to] must remove immediately from [such] the right-of-
 354 way or drain or ditch the material so deposited. [shall be subject to
 355 punishment for a class C violation as set forth in section 1-19 of chapter
 356 1 of the County Code. Each day a violation continues to exist shall
 357 constitute a separate offense.]

358 (c) Any violation of this Section is a Class C violation.

359 **[49-21A] 49-16. Covered loads.**

360 (a) A person must not carry any loose or bulky material in a motor vehicle
 361 on any [county] road, as defined in [section 49-31] Section 49-26,
 362 unless that part of the motor vehicle in which the load is carried is:

363 (1) Fully enclosed on the bottom and all sides; and

364 (2) Covered on the top by a firmly secured cover sufficient to contain
 365 all loose or bulky material, if the vehicle does not have a roof that
 366 covers the entire area in which the load is carried.

367 (b) A cover and (for bulky material) sides are not required if the material is
 368 contained or secured by other means that prevent its escape.

369 (c) As used in this Section:

370 (1) Loose material includes dirt, ash, sand, pebbles, rocks, gravel,
 371 metal, glass, wood chips, and any other substance that can readily
 372 blow off or drop from a vehicle;

373 (2) Bulk material includes bricks, cinder blocks, lumber, logs,
 374 gypsum board, barrels, pipes, furniture, and any other items that
 375 can readily drop from a vehicle.

376 (d) This [section] Section does not apply to:

377 (1) A government agency, or a contractor hired by a government
 378 agency, that is using a motor vehicle to:

379 [a.] (A) Drop sand, salt, or other materials to improve traction;

380 [b.] (B) Spread water or another substance to clean a road; or

381 [c.] (C) Collect newspapers for recycling.

382 (2) A vehicle transporting agricultural products as harvested.

383 (3) A construction or mining vehicle only when it is:

384 [a.] (A) Crossing a highway; or

385 [b.] (B) Moving between construction barricades on a public
 386 works project.

387 (4) A fire and rescue vehicle.

388 [(e) The county executive may issue regulations under method (2) to
 389 implement this section.]

390 [(f) Any violation of this section is a class B violation.]

391 **[49-22. Teamsters to remain with vehicles; penalty.]**

392 [It shall be the duty of every teamster or driver of any wagon, carriage, cart or
 393 other vehicle, drawn by a horse or mule, to remain with the same while traveling on
 394 any turnpike or public road in the county, or through the streets of any incorporated
 395 city or town in such county, so as at all times to have the horse attached to the same
 396 under his control. Any teamster or driver leaving the same while traveling on such

397 turnpike, road or street shall be guilty of a misdemeanor, and upon conviction before
 398 a justice of the peace, shall be fined not exceeding twenty dollars (\$20.00), or be
 399 imprisoned in the county jail for a term not exceeding thirty (30) days, or both fined
 400 and imprisoned in the discretion of the court.]

401 ~~§49-23.~~ **Reserved.]**

402 ~~[49-24A]~~ **49-17. Accumulation of snow and ice on property prohibited.**

403 (a) (1) A person is responsible for removing snow and ice on any
 404 sidewalk, other walkway, shared use path, or parking area on or
 405 adjacent to property that the person owns, leases, or manages,
 406 including any walkway in the public right-of-way, to provide a
 407 pathway wide enough for safe pedestrian and wheelchair use.
 408 For purposes of this Section, commonly owned property between
 409 a single-family residential lot and a common walkway is
 410 considered part of the lot if the intervening common property
 411 includes a walkway or driveway that serves only that lot.

412 (2) Except as provided in paragraph (4), each owner, tenant, or
 413 manager is jointly and severally responsible for clearing snow
 414 and ice from the property and complying with Section 31-26A(d).

415 (3) The requirements of this Section do not apply to:

416 (A) an unpaved walkway;

417 (B) a private walkway or parking area on the property of a
 418 single-family residence;

419 (C) a public walkway behind a single-family residence that is
 420 not directly accessible from the owner's property; or

421 (D) a walkway that:

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

- 423 (ii) serves only pedestrian destinations that are also
424 accessible by another walkway that this Section
425 requires to be cleared;
- 426 (iii) was not routinely cleared of snow and ice after
427 August 1999; and
- 428 (iv) is not the primary route for pedestrian access to a
429 winter recreational facility open to the public.
- 430 (4) (A) An individual who lives in a multi-family residential
431 property is not responsible for removing snow and ice
432 from a common walkway or parking area.
- 433 (B) A homeowners' association, as that term is used in State
434 law, is not responsible for removing snow and ice from a
435 walkway adjacent to a single-family residential lot, if the
436 lot owner is responsible under paragraph (1) for removing
437 snow and ice from that walkway.
- 438 (b) If ice or hard-packed snow is impossible or unreasonably difficult to
439 remove, the person is responsible for applying sufficient sand, other
440 abrasives, or salt to provide safe pedestrian use.
- 441 (c) The person is responsible for removing snow and ice within 24 hours
442 after the end of the precipitation that caused the condition. If a
443 snowplow redeposits snow or ice on a sidewalk or other walkway after
444 a person has complied with this Section, the person is not responsible
445 for clearing the walkway until 24 hours after the snowplow redeposited
446 the snow or ice.
- 447 (d) The County Executive must designate a department to enforce this
448 Section and may designate other County employees or contractors to
449 enforce this Section.

450 (e) The Executive may order a different deadline or conditions for
451 removing snow and ice during or immediately after a severe or unusual
452 storm or other public-safety condition.

453 (f) In addition to any other remedy or penalty for a violation of this
454 Section, the County may clear the snow and ice and charge the
455 responsible property owner for the cost, which the County may collect
456 in the same manner as property taxes.

457 (g) A violation of this Section is a class C violation. A person authorized to
458 enforce this Section must not issue a citation for a violation unless the
459 violation still exists 24 hours after a notice of violation. An authorized
460 enforcement officer may issue the notice of violation to any person
461 responsible under subsection (a) for clearing the snow or ice, or post the
462 notice in a conspicuous place on the property where the violation exists.
463 Each day a violation continues to exist is a separate violation, except for
464 a violation on or adjacent to a single-family residential property.

465 **[49-25] 49-18. Interfering with[,] or damaging[, etc.,] roads under construction**
466 **[prohibited; penalty].**

467 [Any] A person [who shall in any way] must not:

468 (a) interfere with, impede, or hinder the building, repairing, improvement,
469 or construction of any public [roads] road by traveling over the [same]
470 road with motor vehicles [or otherwise] or in any other manner [so as
471 to] that would damage or destroy the [public] road being built, repaired,
472 improved, or constructed; or [to]

473 (b) interfere with [the work of such] building, repairing, [improvement] or
474 [construction,] improving a public road; or [shall]

475 (c) tear down or destroy [the] a public road being built, repaired, improved,
 476 or constructed; or [shall interfere with the work of such building,
 477 repairing, improvement or construction, or shall]

478 (d) tear down or destroy [the] any barricades or lanterns which give notice
 479 to the public and all parties not to travel the portion of [such] road being
 480 [so] built, repaired, improved or constructed. [during the period of such
 481 building, repairing, improving or construction shall be subject to
 482 punishment for]

483 Any violation of this Section is a Class C violation [as set forth in section 1-19
 484 of chapter 1 of the County Code].

485 **[49-27] 49-19. Conversion of [existing] overhead [[public utility]] lines to**
 486 **underground locations.**

487 [Whenever it shall be necessary as the result of] If the construction or
 488 improvement of any County road requires any person to relocate any overhead
 489 electric, telephone, [telegraph] or other overhead [lines of any kind, or related
 490 facilities, within any such] line or related facility in any County road right-of-way,
 491 the [county executive shall] County Executive must, by [written] regulation adopted
 492 under method (3) [of section 2A-15 of this Code], require that any [such lines]
 493 affected line must be installed underground if [he determines] the Executive finds
 494 that [such] underground installation is [required by one (1) or more] desirable
 495 [[because of any of]] after considering the following [[conditions]] factors:

496 (a) Any fire hazard or possible interference with fire fighting equipment
 497 due to the location of the [lines] line;

498 (b) A close proximity of the [lines] line to any place where people may
 499 congregate;

500 (c) The anticipated increase of traffic on the road to be reconstructed or
 501 improved;

- 502 (d) The population of the area, increase in population, and [the] future
 503 conditions [to be] reasonably anticipated in the normal course of
 504 development;
- 505 (e) [There exists such air] Air traffic in the general area of the road, [the
 506 road is near] proximity of any airport, [it is] location of the line in an
 507 [existing or anticipated] approach to an existing or anticipated runway,
 508 or [in the future, overhead lines would result in a] other future hazard to
 509 [such] air traffic;
- 510 (f) The comparative costs of relocating the [lines] line overhead and
 511 installing [them] it underground;
- 512 (g) The comparative maintenance costs for overhead and underground
 513 lines;
- 514 (h) The comparative frequency of interruptions in service for overhead and
 515 underground lines;
- 516 (i) The improvement in the appearance of the area which would result from
 517 installing the [lines] line underground;
- 518 (j) Any location or relocation of an overhead line in a Metro Station Policy
 519 Area, Town Center Policy Area, or other area expressly identified for
 520 this purpose in a Council resolution; or
- 521 [(j)] (k) Any other [conditions material to] condition that affects the public
 522 convenience, health, safety, or general welfare.

523 [In any] Any regulation [adopted hereunder the county executive shall make
 524 such provision as may be necessary for] to implement this Section must require the
 525 replacement of any street [lights which may be] light removed [as the result of]
 526 during the conversion of any [public utility lines] line to an underground [locations]
 527 location.

528 **[49-28. Reserved.]**

529 **[49-29. Hitchhiking within main-traveled portion of street or highway.**

530 It shall be unlawful for any person to stand or walk within the boundaries of
 531 the main-traveled portion of any public street or highway within the county for the
 532 purpose of soliciting a ride from the driver or occupant of any vehicle.

533 Any person who violates this Section shall be subject to punishment for a class
 534 C violation as set forth in section 1-19 of chapter 1 of the County Code.]

535 **Article 2. Franchises.**

536 **[49-11] 49-20. Franchises for use of street[, etc.-]; procedure for granting;**
 537 **notice and hearing.**

538 [No] The Council must not grant any franchise [or right] in relation to any
 539 highway, avenue, street, lane, [or] alley, or other right-of-way, either on, above, or
 540 below the surface [of the same], [shall be granted by the council] until [the following
 541 provisions shall] all requirements of this Article have been [complied with] met:

542 [(1)] (a) Application to be published. The applicant must publish notice of
 543 each application for [such] any franchise [or right shall be published by
 544 the applicant] once a week for [three (3)] 3 successive weeks in one
 545 [(1)] or more newspapers [published] of general circulation in the
 546 County [and having general circulation], [stating] specifying:

547 (1) the essential terms [thereof] of the proposed franchise; [and]

548 (2) the compensation [to be received therefore] the County will
 549 receive, which may take the form of in-kind goods and services
 550 as well as cash payments; and [setting forth]

551 (3) the location, character, and extent of the [franchise sought] use of
 552 the right-of-way.

553 [(2)] (b) Inquiry as to value. [Upon the first publication of such notice it shall
 554 be the duty of the county executive] After the notice required by
 555 subsection (a) is published, the County Executive or [his] a designee [to

556 make diligent inquiry as to] must investigate the [money] value of the
 557 proposed franchise [or right asked to be granted,] and the adequacy of
 558 the compensation proposed to be paid for it.

559 [(3)] (c) *Hearing on objections.* If any taxpayer, or any property owner whose
 560 property rights may be affected, files an objection to the granting of the
 561 franchise [is made by any person interested therein, either as a taxpayer
 562 or as one whose property rights are involved, and filed] in writing with
 563 the [county executive] County Executive within [ten (10)] 10 days after
 564 the last notice required by subsection (a) appears, the County Executive
 565 or a designee must hold a hearing [shall be held] within 15 days after
 566 the objection is filed on [such objections by the county executive or his
 567 designee] the proposed franchise and any objections to it.

568 [(4)] (d) *Recommendations of [county executive] County Executive.* The
 569 [county executive shall] County Executive must, in each case, [and
 570 subsequent to] after any hearings [which may be] required by this
 571 [section] Article, forward to the [council his] Council written
 572 recommendations [setting forth a description of the application,]
 573 including the Executive's findings as to the value of the proposed
 574 franchise, [and a resume of] any response to objections which [may]
 575 have been raised, [as well as] and any other relevant [and pertinent
 576 matters] issues.

577 As used in this [[Article]] Chapter, "franchise" includes any franchise, lease,
 578 license, [[or sales]] contract, or other right or permission [[for any part or use of a
 579 County right-of-way, and any other right]] to use or occupy a County right-of-way.
 580 However, "franchise" does not include a temporary, removable obstruction or
 581 occupation of a right-of-way for which the Department of Permitting Services has
 582 issued a permit under Section 49-11.

583 **[49-12] 49-21. [Same-Conditions of grant; time limit, etc] Council action.**

584 (a) If [no valid objection is made to the granting of such franchise and it
585 appears to] the [council] Council finds that [the] granting [of the same]
586 the franchise is expedient and proper, the [council shall have authority
587 to] Council may grant such franchise for such [money] compensation as
588 it [shall], after [consideration of] considering the recommendations of
589 [county executive] the County Executive, [determine to be] finds proper
590 [and as may be prescribed by such council], for a period not longer than
591 [twenty-five (25)] 25 years. [, but such grant may at] If the franchise
592 allows the location of a permanent structure with a useful life
593 substantially longer than 25 years in the County right-of-way, the initial
594 term of the franchise may exceed 25 years.

595 (b) At the option of the [council provide for giving] Council, the approved
596 franchise may allow the grantee [the right] to renew the franchise, [and]
597 after a fair revaluation, including [in such revaluation] the value, if any,
598 derived from the franchise or [right to] renewals, for one or more terms
599 that each do not [exceeding] exceed [[in the aggregate]] [twenty-five
600 (25)] another 25 years.

601 (c) Every grant of any [such] franchise [or right shall make provisions]
602 must provide, by [way of] forfeiture of the grant, for [the purpose of]
603 compelling compliance with [the] its terms [thereof] and to secure
604 efficiency of public service at reasonable rates and the maintenance of
605 the property in good condition, throughout [the full term of] the grant.
606 [The] Each grant [shall] must also specify:

607 (1) the mode of determining [the] any valuation and revaluation
608 [which may be provided for therein] under this Article, [and]

609 (2) the time [limitation in which there shall be an] limit to exercise
 610 [of] the rights given, and

611 (3) the procedure for default [thereof] for a lapse of the [grant]
 612 franchise.

613 (d) When any construction authorized by a County franchise or permit is
 614 finished, each franchisee must submit a full set of as-built drawings to
 615 the Director of Permitting Services. The required drawings must be
 616 submitted in a hard copy format maintained by the franchisee in the
 617 ordinary course of business and in an electronic format acceptable to the
 618 Director. The required drawings must show in detail the exact as-built
 619 location of any facility installed in a County right-of-way. The Director
 620 must keep the required drawings confidential and distribute them only
 621 to another County Department which needs them to perform essential
 622 construction, maintenance, regulatory, or security functions.

623 **[49-13] 49-22. [Same-]County [council] Council to retain municipal control.**

624 When the Council grants [grant of] a franchise [or right is made in compliance
 625 with the foregoing sections] under this Article, the [council shall] Council must not
 626 part with, but [shall] must expressly reserve, the right and duty at all times to exercise
 627 full municipal control and regulation in respect to all matters connected with [such
 628 grant] the franchise not inconsistent with [the] its terms [thereof].

629 **[49-14] 49-23. [Same-Private] Certain private rights not [to be] affected.**

630 Nothing in [sections 49-11 to 49-13 of] this [Code shall be construed as
 631 affecting] Article is intended to affect any private [rights] right, including [or] the
 632 right of any adjacent [landholders as now held and enjoyed by law] property owner
 633 held [[before the franchise was granted]] by law in 1910, except as necessary to
 634 comply with this Chapter.

635 **[49-15] 49-24. [Same-]Application of funds.**

636 All money received by the [county] County under [the provisions of sections
637 49-11 and 49-12 shall] this Article must be applied to [[the]] County [[general]] [road
638 account of the county] [[fund]] transportation programs.

639 **Article [II] 3. Road Design and Construction Code.**

640 **[49-30] 49-25. Purpose and short [[Short]] title.**

641 This Article is intended to guide the planning, design, and construction of
642 transportation facilities in the public right-of-way. Each [[roadway]] transportation
643 facility in the County must be planned and designed to:

- 644 (a) maximize the choice, safety, convenience, and mobility of all users,
- 645 (b) respect and maintain the particular character of the community where it
646 is located, and [[to]]
- 647 (c) minimize stormwater runoff and otherwise preserve the natural
648 environment.

649 To achieve these goals, each County road and street must be designed so that the
650 safety and convenience of all users of the roadway system -- including pedestrians,
651 bicyclists, transit users, automobile drivers, commercial vehicles and freight haulers,
652 and emergency service vehicles -- is accommodated. Each road and street must [[be
653 designed to]] facilitate multi-modal use and assure that all users can travel safely in
654 the public right of way. A specified [[minimum]] quantity of stormwater must be
655 managed and treated on-site, in the road or street right-of-way, including through the
656 use of vegetation-based infiltration techniques. These context-sensitive policies must
657 be employed in all phases of [[roadway]] facility development, including planning,
658 design, construction, and reconstruction.

659 This [article] Article [shall] may be [known] cited as the "Montgomery County
660 Road Design and Construction Code."

661 **[49-31] 49-26. Definitions.**

662 [For the purposes of] In this [[Article]] Chapter, except where specified
 663 otherwise, the following words and phrases have the meanings indicated:

664 [*Bikeways*: All facilities that explicitly provide] *Bikeway*: any area expressly
 665 intended for bicycle travel, [. The term "bikeways" includes the following] including
 666 any:

667 (a) [Bicycle Trail or Path] *Shared use path*: A [separated right-of-way]
 668 paved path [[8'-10']] 8'-12' wide designated for [the use of] bicycles
 669 and pedestrians [in which cross-flows by motorists are minimized] that
 670 is separated from motorized traffic by a curb, barrier, or landscape
 671 panel.

672 (b) [Bicycle Lane] *Bike lane*: A [restricted right-of-way] portion of a
 673 roadway designated by striping, signing, [[and]] or pavement markings
 674 for the preferential or exclusive use of bicycles, and on which through-
 675 travel by motor vehicles [or pedestrians] is [now] not allowed], but
 676 vehicle parking may be allowed, and on which cross-flows by motorists,
 677 for example, to gain access to parking facilities or associated land use,
 678 may be allowed].

679 (c) [Bicycle Route] *Shared use roadway*: [A shared right-of-way
 680 designated as such by signs placed on vertical posts or stenciled on the
 681 pavement and which shares its through-traffic right-of-way with motor
 682 vehicles and pedestrians][[.]] A roadway open to both bicycle and
 683 motor vehicle travel and which is designated as a preferred route for
 684 bicycle use by warning [[and]] or informational signs.

685 *Construction and constructed*[: Such terms shall] include "reconstruction" and
 686 "reconstructed[[,]]" but [shall] not [include] "maintenance[.]", and [[includes]]
 687 include grading, installation of drainage structures, paving, curbs and gutters, curb

688 returns ~~[[of curbs]]~~, sidewalks, bikeways, driveway entrances, guardrails, retaining
 689 walls, sodding, and planting.

690 Curbside Width: the area beyond each curb necessary for sidewalks, shared
 691 use paths, street trees and other landscaping, streetlights, utilities, and other elements.

692 Dedication plat: Any plat conforming to law, duly recorded [among] in the
 693 County land records [of the County], which has the legal effect of dedicating one
 694 [(1)] or more rights-of-way to public use[, and, where any such dedication]. If the
 695 plat [has been] was recorded [subsequent to the creation of] after the Maryland-
 696 National Capital Park and Planning Commission was created, [the approval of that
 697 body corporate has been affixed thereto where] and the property [concerned lies
 698 within its] is located in the Commission's jurisdiction, the Commission must have
 699 approved the plat.

700 Design standard: the standard adopted by regulation under this Article for
 701 each type of road, as defined in Section 49-31, except Freeways and Controlled
 702 Major Highways, which shows typical cross-sections and other dimensions to which
 703 the road must conform.

704 Director: The Director of [the County Department of] Public Works and
 705 Transportation or the Director of Permitting Services, as specified, and [the] each
 706 Director's [duly authorized agents] agent.

707 Drainage structure: Any [[stormwater management facility, including any]]
 708 culvert, bridge, storm drain, storm sewer, catch basin, canal, channel, inlet, ditch, or
 709 subsurface drain, and any other structure or watercourse designed to [carry off]
 710 convey [[or manage]] surface or other waters.

711 Dual road: Any road in which the travel directions are separated by a median.

712 Forest conservation plan: A plan for the retention, afforestation, or
 713 reafforestation of forest and trees approved under Chapter 22A.

714 *Ground cover:* [[Dense masses of low growing, low]] Low- maintenance, non-
 715 invasive, leafy, grassy, or [[floral]] woody vegetation that [[cover]] covers and holds
 716 soil. [[Unless specifically authorized by regulation, ground cover does not include
 717 bushes, shrubs, or any plant identified as a weed under County law.]]

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

720 Reconstruct and reconstruction include any change in the width of a road --
 721 that is, the width of the pavement or the area between curbs -- but do not include
 722 resurfacing a road without any change in its width.

723 *Road:* Any street, highway, avenue, lane, alley, or viaduct, or any segment [or
 724 part] of [the length thereof] any of them.

725 *Specimen tree:* [Trees having] Any tree with a diameter measured at 4.5 feet
 726 above the ground of 30 inches or more, or [trees having] any tree with 75% or more
 727 of the diameter of the current [state] champion tree of that species, as designated by
 728 the County Forest Conservancy District Board.

729 *Street tree:* A tree that is listed in the design standards [manual] as acceptable
 730 for planting in a public [[road]] right-of-way, [[or, [in the case of] in]] In a private
 731 road [rights-of-way and easements] right-of-way or easement, a tree listed as
 732 acceptable for planting in the Planning Board technical manual for forest
 733 conservation.

734 *Subdivision:* The division or partition of a lot, tract or parcel of land into [two
 735 (2)] 2 or more lots, plots, sites, tracts, parcels, or other divisions for [the purpose,
 736 whether] immediate or future[, of] rental, sale, or building development. [, and shall
 737 include] Subdivision includes a resubdivision, but [such term shall] not [include] a
 738 [bona fide] division or partition of land for agricultural purposes.

739 *[Suburban district:* The Montgomery County Suburban District, as described
 740 in Section 68-1, and as the same may be hereafter amended.]

741 Target Speed: the speed at which vehicles should operate on a thoroughfare in
 742 a specific context, consistent with the level of multimodal activity generated by
 743 adjacent land uses, to provide mobility for motor vehicles and a safe environment for
 744 pedestrians and bicyclists. The target speed is usually the posted speed limit.

745 Transitway: a right-of-way for use exclusively by public transit vehicles.

746 **[49-32] 49-27. Applicability of Article.**

747 This [article shall apply] Article applies to all roads [within] in the County,
 748 [other than] except any:

749 (a) State [roads] road;[.]

750 (b) Federal [roads] road;[.]

751 (c) [Roads lying within] Road located in any park under the jurisdiction of
 752 the Maryland-National Capital Park and Planning Commission;[[,
 753 [except roads which are] and not maintained by the [county]
 754 County;]][.]

755 (d) [Roads] [[Road]] Private road [[on a private right-of-way not [within]
 756 located in a subdivision]] [.] or

757 (e) [[Private [roads] road on an improved lot [within] in a subdivision
 758 which [do] does not lead to or connect with any other [lots within] lot in
 759 the subdivision or any other subdivision[.] or]

760 [[(f)] Municipally owned and maintained road.

761 Nothing in this [section shall prohibit or prevent] Article prevents the County from
 762 [construction and benefit assessment of] building, and assessing the cost of, any
 763 drainage [structures, curbs and gutters, sidewalks, returns of curbs and] structure,
 764 curb or gutter, sidewalk, shared use path, curb return [[of curb]], or sidewalk and
 765 driveway [entrances] entrance, along [state or federal roads] a State or Federal road.

766 **[49-33] 49-28. Standards and specifications.**

767 (a) Except as otherwise provided in this Article, the construction of all
 768 roads must conform to the [minimum requirements,] standards, criteria,
 769 and specifications [provided] in this [article] Article or any regulation
 770 adopted under this Article. [In] As used in this Article, [the word]
 771 "standards" means [Montgomery] County design standards, and [the
 772 word] "specifications" means [Montgomery] ~~[[County]]~~ the most recent
 773 State standard specifications for road construction and materials.

774 [(b) The Montgomery County design standards and Montgomery County
 775 standard specifications are hereby adopted and made a part of this
 776 article. The "standards" and "specifications" adopted hereby may be
 777 amended by the county executive by method 2 regulation. The clerk of
 778 the county council must keep among the official records the standards
 779 and specifications, as adopted by the county council, and any
 780 amendments. The clerk must also prepare and make available to the
 781 public printed copies of this article and of such standards and
 782 specifications. These documents may be provided for free or sold for a
 783 price set by the county executive or a designee.]

784 (b) The ~~[[Department]]~~ Director of Public Works and Transportation may
 785 set ~~[[fees]]~~ a fee by method 2 regulation for ~~[[the costs of]]~~ the review of
 786 any plan or document submitted ~~[[pursuant to the Subdivision~~
 787 ~~Regulations in]]~~ under Chapter 50 or ~~[[for reviews requested under]]~~
 788 this Chapter. ~~[[The]]~~ Each fee must be based on the costs of reviewing
 789 ~~[[plans]]~~ any plan or ~~[[documents]]~~ document and any staff participation
 790 in the subdivision process. The Department must provide a copy of
 791 ~~[[the current]]~~ each fee regulation to the ~~[[Montgomery County]]~~
 792 Planning Board.

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

796 **[49-33A] 49-29. Pedestrian walkways, bikeways, and wheelchair traffic.**

797 [(a) In the interest of promoting alternative means of transportation and
 798 enhancing the health and welfare of the citizens of the county, the
 799 county executive, in cooperation with appropriate government agencies,
 800 shall develop, as soon as possible after the effective date of this section,
 801 a plan, which shall include necessary capital improvements programs
 802 for a system of bikeways and pedestrian walkways to be phased into
 803 existing road and transportation systems throughout the county. Such
 804 bikeways and pedestrian walkways shall be consistent with area master
 805 plans and transportation plans prepared by the county planning board.
 806 Following the development and approval of the plan for a program for
 807 bikeways and pedestrian walkways the county shall proceed as rapidly
 808 as possible with the implementation of that program.]

809 [(b)] (a) [In addition to the phasing in of bikeways and pedestrian walkways
 810 with existing transportation systems pursuant to subsection (a) of this
 811 section, bikeways] Bikeways and [pedestrian] walkways [shall] must
 812 be constructed [along with the construction, reconstruction or relocation
 813 of] when any [county] County road is constructed, reconstructed, or
 814 relocated, unless [it is determined that such] the County Council finds
 815 (for a road improvement authorized in a capital improvements program)
 816 or the Planning Board finds (for a road improvement made a condition
 817 of preliminary plan or site plan approval) that bikeways or walkways in
 818 that location would [not be in the interest of] reduce public safety, [or]
 819 would not be feasible, or would be disproportionate in cost to [the need

820 therefore or] their probable use [thereof]. [Such] All bikeways and
 821 [pedestrian] walkways [shall] must conform to approved capital
 822 improvements programs and [shall] be consistent with area master plans
 823 and transportation plans [prepared] adopted by the [county planning
 824 board] Planning Board.

825 [(c)] (b) [In order to] To promote the safety of bicycle and wheelchair travel
 826 throughout the County, the [county executive shall] County Executive
 827 must establish, by [written] regulation [adopted under method (3) of
 828 section 2A-15 of this Code], standards and specifications [for the
 829 construction and maintenance of] to build and maintain ramps at curbed
 830 intersections and [for the construction and maintenance of] storm water
 831 gratings and other openings along roads and streets, in each case of
 832 [such] a design and type [as not to constitute] that is not a hazard to
 833 bicycle and wheelchair traffic. [Such nonhazardous] These ramps,
 834 gratings, and openings [shall] must be [constructed] built and
 835 maintained [in connection with all projects implemented pursuant to
 836 subsections] as part of each project under subsection (a) [and (b) of this
 837 section].

838 **49-30. Traffic Calming.**

839 (a) The Director of Public Works and Transportation must consider
 840 installing traffic calming and bicycle- and pedestrian-friendly design
 841 features in any residential street over 1,000 feet long, minor arterial,
 842 business district street, and industrial street. Traffic calming features
 843 include raised crosswalks and raised intersections, traffic circles,
 844 medians, pedestrian refuge islands, chokers, smaller centerline radii,
 845 parking cut-outs, and special paving and streetscaping in central
 846 business districts or other commercial areas.

847 (b) Speed humps that are 12 feet wide may be built on any principal
 848 secondary residential street, secondary residential street, tertiary
 849 residential street, or alley, but must be spaced at least 500 feet from any
 850 other hump and 200 feet from any intersection. Speed humps that are
 851 22 feet wide may be built on any primary residential street, but must be
 852 spaced at least 500 feet from any other hump and 200 feet from any
 853 intersection. Speed humps that are 22 feet wide may be built on a minor
 854 arterial, but must be spaced at least 750 feet from any other hump and
 855 300 feet from any intersection. Before speed humps are installed in any
 856 road, all other requirements specified in applicable regulations must be
 857 met.

858 **[49-34] 49-31. Classification [and minimum requirements for] of roads.**

859 [[All roads must be classified as provided in this Section [under the following
 860 minimum requirements for each class.]]Each road, except those listed in subsections
 861 (m)-(n), must be classified as designated in the applicable master or sector plan. This
 862 Section defines the vehicular functions of each road classification.

863 [(a) Business district road means any road which lies within or is contiguous
 864 to any area which has been recommended or approved for any class of
 865 commercial or industrial use in any zoning or master highway plan
 866 approved by the Maryland-National Capital Park and Planning
 867 Commission, the Upper Montgomery County Planning Commission or
 868 the county council, whether such road lies in whole or in part within or
 869 without the limits of the suburban district. Business district roads shall
 870 be constructed in conformity with the following minimum
 871 requirements:

872 (1) Width. The right-of-way shall be at least seventy (70) feet wide,
 873 unless, prior to August 15, 1950, a master highway plan duly

874 adopted by the Maryland-National Capital Park and Planning
875 Commission has established a right-of-way of less than seventy
876 (70) feet for a particular road, in which case the width of the
877 right-of-way on such plan shall control. Paving shall be at least
878 forty-eight (48) feet wide.

879 (2) Construction. The entire right-of-way shall be graded and there
880 shall be installed paving, drainage structures, curbs and gutters
881 and sidewalks.

882 (3) Standards and Specifications.

883 a. Grading. All grading shall be done in accordance with
884 plans and profiles approved by the director, standard 54
885 and specifications article C-1 through article C-9.

886 b. Drainage structures. See subsection (h) of section 49-35.

887 c. Paving. Paving shall be of the required width and in
888 accordance with standard 45A or standard 45B, and the
889 applicable specifications indicated thereon.

890 d. Curbs and gutters. Curbs and gutters shall be built in
891 accordance with standard 10A and specifications article C-
892 51.

893 e. Sidewalks. Sidewalks shall be built from the property line
894 to the back line of the curb and in accordance with
895 standard 13B and specifications article C-52.]

896 [(b) Arterial road means any road (other than a business district road), which
897 connects two (2) or more state or federal roads and which will be used
898 primarily for through traffic, whether such road lies in whole or in part
899 within or without the limits of the suburban district. Arterial roads shall

900 be constructed in conformity with the following minimum
901 requirements:

902 (1) Width. The right-of-way for all arterial roads shall be at least
903 seventy-two (72) feet wide. Within the suburban district, the
904 pavement shall be at least forty (40) feet wide. Outside the
905 suburban district, the pavement shall be from twenty (20) to
906 twenty-four (24) feet wide and the roadbed thirty-four (34) to
907 forty (40) feet wide, as may be found by the county to be
908 necessary.

909 (2) Construction. Where an arterial road passes through or abuts a
910 subdivision, whether within or without the suburban district, the
911 entire right-of-way shall be graded and there shall be installed
912 drainage structures, paving, curbs and gutters and sidewalks. In
913 all other areas, curbs and gutters shall be required upon a finding
914 by the county that they are necessary for proper drainage and the
915 roadbed shall be graded, and paving and drainage structures shall
916 be installed.

917 (3) Standards and Specifications.

918 a. Grading. All grading shall be done in accordance with
919 plans and profiles approved by the director, standard 54
920 and specifications article C-1 through article C-9.

921 b. Drainage structures. See subsection (h) of section 49-35.

922 c. Paving. Paving shall be of the required width and in
923 accordance with standard 46 and the applicable
924 specifications indicated thereon.

925 d. Curbs and gutters. Curbs and gutters shall be built in
 926 accordance with standard 10A and specifications article C-
 927 51.

928 e. Sidewalks. Sidewalks shall be built in accordance with
 929 standard 13A and specifications article C-52.]

930 [(c) Rural road means an existing county-maintained road which serves
 931 farms and scattered developments along or near the road and which is
 932 generally used as a connecting road. This shall be considered a
 933 transitional classification and any road so designated shall be
 934 reclassified by the county executive, or his designee, in accordance with
 935 the approved and adopted master plan of the vicinity when he decrees
 936 such reclassification necessary or prudent for the efficient movement of
 937 traffic, public convenience and safety. Such roads shall be reconstructed
 938 according to the following minimum requirements:

939 (1) Width. The pavement shall be no greater than twenty (20) feet
 940 wide.

941 (2) Construction. The roadway shall be constructed in accordance
 942 with the standards and specifications of this classification
 943 approved by the county executive.]

944 [(d) Primary residential road means a road, not within the definition of
 945 subsection (a), (b) or (c) of this section, which serves or will be used as
 946 a principal outlet to a state road, business district road or arterial road
 947 from any existing or prospective residential development which
 948 provides or which may provide housing for two hundred (200) or more
 949 families, whether such road lies in whole or in part within or without the
 950 suburban district. Primary residential roads shall be constructed
 951 according to the following minimum requirements:

- 952 (1) Width. The right-of-way shall be at least seventy (70) feet wide,
953 unless, prior to August 15, 1950, a dedication plat has been filed
954 among the land records of the county establishing a right-of-way
955 of less than seventy (70) feet, in which case such established
956 right-of-way shall prevail for any roads which may be classified
957 as "primary residential." Within the suburban district and in all
958 subdivisions, whether within or without the suburban district,
959 such roads shall have paving at least thirty-six (36) feet wide, and
960 outside the suburban district the paving shall be from twenty (20)
961 to twenty-four (24) feet wide and the roadbed from thirty-four
962 (34) to forty (40) feet wide, as may be found by the county to be
963 necessary.
- 964 (2) Construction. The entire right-of-way shall be graded, and
965 drainage structures, paving, curbs, gutters and sidewalks shall be
966 installed.
- 967 (3) Standards and Specifications.
- 968 a. Grading. All grading shall be done in accordance with
969 plans and profiles approved by the director, standard 54
970 and specifications article C-1 through C-9.
- 971 b. Drainage structures. See subsection (h) of section 49-35.
- 972 c. Paving. Paving shall be of the required width and in
973 accordance with standard 48 and applicable specifications
974 indicated thereon.
- 975 d. Curbs and gutters. Curbs and gutters shall be built in
976 accordance with standard 10A or 10C and specifications
977 article C-51.

978 e. Sidewalks. Sidewalks shall be built in accordance with
979 standard 13A and specifications article C-52.]

980 [(e) Secondary residential road means any road not within the definition of
981 subsection (a), (b), (c) or (d) of this section, whose principal function is
982 to provide direct access between a residential development housing less
983 than two hundred (200) families and a primary residential road, a state
984 road, business district road or arterial road, whether within or without
985 the suburban district. The minimum construction requirements for such
986 roads shall be as follows:

987 (1) Width. The right-of-way shall be at least sixty (60) feet wide,
988 unless, prior to August 15, 1950, a dedication plat has been filed
989 among the land records of the county establishing a right-of-way
990 of less than sixty (60) feet, in which case such established right-
991 of-way shall prevail. Paving shall be at least twenty-six (26) feet
992 wide.

993 (2) Construction. The entire right-of-way shall be graded and
994 drainage structures, paving and curbs and gutters shall be
995 installed. Sidewalks shall be constructed, except as provided by
996 subsection (e) of section 49-35.

997 (3) Standards and Specifications.

998 a. Grading. All grading shall be done in accordance with
999 plans and profiles approved by the director, standard 54
1000 and specifications article C-1 through C-9.

1001 b. Drainage structures. See subsection (h) of section 49-35.

1002 c. Paving. Paving shall be of the required width and in
1003 accordance with standard 49 and applicable specifications
1004 indicated thereon.

1005 d. Curbs and gutters. Curbs and gutters shall be built in
 1006 accordance with standard 10A or 10C and specifications
 1007 article C-51.

1008 e. Sidewalks. Sidewalks shall be built in accordance with
 1009 standard 13A and specifications article C-52.]

1010 [(f) Tertiary residential road means any road not within the definition of
 1011 subsection (a), (b), (c), (d), (e), (g) or (h) of this section, whose purpose
 1012 is to provide direct access to a residential development containing not
 1013 more than seventy-five (75) dwelling units. The use of a tertiary road
 1014 must be approved by the planning board at the time of preliminary plan
 1015 approval or site plan approval.

1016 (1) Width.

1017 a. Right-of-way. The right-of-way width shall be as
 1018 determined by the planning board in the process of
 1019 subdivision or site plan approval in order to provide for the
 1020 necessary parking, drainage structures, sidewalks and
 1021 utilities; but in no case shall it be less than twenty-seven
 1022 (27) feet four (4) inches for two-way traffic and twenty-
 1023 one (21) feet four (4) inches for one-way traffic.

1024 b. Pavement. Paving shall be at least twenty-six (26) feet
 1025 wide for two-way traffic and twenty (20) feet wide for one-
 1026 way traffic.

1027 (2) Construction. The entire right-of-way shall be graded and
 1028 drainage structures, paving and curb and gutters shall be installed.

1029 (3) Standards and Specifications.

- 1030 a. Grading. All grading shall be done in accordance with
- 1031 plans and profiles approved by the director, standard 54
- 1032 and specifications article C-1 through C-9.
- 1033 b. Drainage structures. See subsection (h) of section 49-35.
- 1034 c. Paving. Paving shall be in accordance with standard 49
- 1035 and applicable specifications indicated thereon.
- 1036 d. Curbs and gutters. Curbs and gutters shall be built in
- 1037 accordance with standard 10A or 10C and specifications
- 1038 article C-51.
- 1039 e. Sidewalks. Sidewalks within the right-of-way shall be built
- 1040 in accordance with standard 13A and specifications article
- 1041 C-52.]

1042 [(g) Alley means a right-of-way which provides secondary service access for

1043 vehicles to the side or rear of abutting properties. Alleys shall be

1044 constructed according to the following minimum requirements:

- 1045 (1) Width. Within any area which has been recommended or
- 1046 approved for any class of commercial or industrial use in any
- 1047 zoning plan approved by the Maryland-National Capital Park and
- 1048 Planning Commission, the Upper Montgomery County Planning
- 1049 Commission or the county council, the right-of-way and the
- 1050 paving to be twenty (20) feet wide. In all other areas, the paving
- 1051 shall be at least sixteen (16) feet wide.
- 1052 (2) Construction. The entire right-of-way shall be graded and paved
- 1053 and drainage structures installed.
- 1054 (3) Standards and Specifications:

- 1055 a. Grading. All grading shall be done in accordance with
 1056 plans and profiles approved by the director, standard 54
 1057 and specifications article C-1 through C-9.
- 1058 b. Drainage structures. See subsection (h) of section 49-35.
- 1059 c. Paving. Where an alley is parallel or contiguous to a
 1060 business road, the paving shall be in accordance with
 1061 standard 27A and applicable specifications indicated
 1062 thereon. Where an alley is parallel or contiguous to any
 1063 other than a business district road, paving shall be in
 1064 accordance with standard 27B and applicable
 1065 specifications indicated thereon.]

1066 [(h) Service drive or marginal access road means any road which parallels
 1067 and is separated by a planting strip from a state, federal, arterial,
 1068 business district or primary residential road and which is primarily used
 1069 and designed to separate local traffic from through traffic using such
 1070 state, federal, arterial, business district or primary residential road, and
 1071 to control traffic moving between such through traffic road and service
 1072 drive and the local area served thereby. A service drive may be required
 1073 prior to the final approval and recording of a dedication plat among the
 1074 land records of the county wherever the county or other governmental
 1075 authority having jurisdiction finds, as a result of a traffic study, that
 1076 there exists a present or prospective need for so separating and
 1077 controlling the movement of traffic.

1078 (1) Width. Adequate right-of-way shall be provided as found
 1079 necessary by the county to construct a service drive as prescribed
 1080 by standard 50; provided, that where a service drive is established
 1081 on any dedication plat which has been recorded among the land

1082 records of the county prior to August 15, 1950, the width of the
 1083 right-of-way shall not be greater than that established on the plat.
 1084 Paving shall be a minimum of twenty (20) feet wide.

1085 (2) Construction. The entire right-of-way shall be graded and
 1086 drainage structures, paving, curbs and gutters and sidewalk shall
 1087 be installed.

1088 (3) Standards and Specifications:

1089 a. Grading. All grading shall be done in accordance with
 1090 plans and profiles approved by the director, standard 54
 1091 and specifications article C-1 through C-9.

1092 b. Drainage structures. See subsection (h) of section 49-35.

1093 c. Paving. Paving shall be of the required width and in
 1094 accordance with standard 50 and applicable specifications
 1095 indicated thereon.

1096 d. Curbs and gutters. Curbs and gutters shall be built in
 1097 accordance with standard 10A or 10C and specifications
 1098 article C-51.

1099 e. Sidewalks. Sidewalks shall be built on the side of the
 1100 service drive upon which building lots abut, and shall be
 1101 built in accordance with standard 13A and specifications
 1102 article C-52.]

1103 [(i) Dual lane road means any road which has two (2) separate roadways
 1104 divided by an island or grass plot, and designed for one-way traffic in
 1105 each roadway. A dual lane road shall be classified as a business district
 1106 road, arterial road, primary residential road or secondary residential
 1107 road. Whenever a dual lane road is constructed pursuant to a zoning or
 1108 highway plan approved by the Maryland-National Capital Park and

1109 Planning Commission, the Upper Montgomery County Planning
1110 Commission or the county council, it shall conform to the following
1111 minimum requirements:

1112 (1) Width. The right-of-way shall be at least one hundred (100) feet.
1113 The width of pavement of each roadway where the dual lane road
1114 is so classified shall be as follows: Business road, thirty-two (32)
1115 feet; arterial road, thirty-two (32) feet; primary residential road or
1116 secondary residential road, twenty (20) feet.

1117 (2) Construction. The entire right-of-way shall be graded and
1118 drainage structures and paving shall be installed. Wherever
1119 required by this article for the particular class in which a dual
1120 lane road is placed, curbs and gutters and sidewalks shall be
1121 installed.

1122 (3) Standards and Specifications.

1123 a. Grading. All grading shall be done in accordance with
1124 plans and profiles approved by the director, standard 54
1125 and specifications article C-1 through C-9.

1126 b. Drainage structures. See subsection (h) of section 49-35.

1127 c. Paving. Paving shall be of the required width and conform
1128 to standards and specifications for business district,
1129 arterial, primary or secondary residential roads according
1130 to the particular class in which the road has been placed.

1131 d. Curbs and gutters. Curbs and gutters shall be built on both
1132 sides of each roadway of a dual lane road in accordance
1133 with standards and specifications applicable to the
1134 particular classification in which such dual lane road has
1135 been placed; except, that where the classification is

1136 primary or secondary residential, the curb on the side of
 1137 the roadway next to the dividing strip shall be built in
 1138 accordance with standard 10B and specifications article C-
 1139 51.

1140 e. Sidewalks. Sidewalks shall be built on each side of a dual
 1141 lane road on the side of the respective roadway upon
 1142 which the building lots abut, and in accordance with either
 1143 design standard 13A or 13B as determined by the
 1144 particular classification of the road, and in accordance with
 1145 specifications article C-51.]

1146 (j) Rustic road or exceptional rustic road means a road classified as such in
 1147 the Master Plan of Highways Within Montgomery County under Article
 1148 VII of this Chapter, as amended. The right-of-way width for each rustic
 1149 road and exceptional rustic road is as established in the Master Plan of
 1150 Highways.]

1151 (a) A Freeway is a road meant exclusively for through movement of
 1152 vehicles at a high speed. Access must be limited to grade-separated
 1153 interchanges.

1154 (b) A Controlled Major Highway is a road meant exclusively for through
 1155 movement of vehicles at a lower speed than a Freeway. Access must be
 1156 limited to grade-separated interchanges or at-grade intersections with
 1157 public roads.

1158 (c) A Major Highway is a road meant nearly exclusively for through
 1159 movement of vehicles at a moderate speed. Access must be primarily
 1160 from grade-separated interchanges and at-grade intersections with
 1161 public roads, although driveway access is acceptable in urban and
 1162 denser suburban settings.

- 1163 (d) A Parkway is a road meant exclusively for through movement of
 1164 vehicles at a moderate speed. Access must be limited to grade-
 1165 separated interchanges and at-grade intersections. Any truck with more
 1166 than 4 wheels must not use a Parkway, except in an emergency or if the
 1167 truck is engaged in Parkway maintenance.
- 1168 (e) An Arterial is a road meant primarily for through movement of vehicles
 1169 at a moderate speed, although some access to abutting property is
 1170 expected.
- 1171 (f) A Country Arterial is an Arterial, typically in the County's agricultural
 1172 reserve.
- 1173 (g) A Minor Arterial is a 2-lane Arterial meant nearly equally for through
 1174 movement of vehicles and access to abutting property.
- 1175 (h) A Business District Street is a road meant for circulation in commercial
 1176 and mixed-use zones.
- 1177 (i) An Industrial Street is a road meant for circulation in industrial zones.
- 1178 (j) A Primary Residential Street is a road meant primarily for circulation in
 1179 residential zones, although some through traffic is expected.
- 1180 (k) A Country Road is a road that has the function of a Primary Residential
 1181 Street, typically in the County's agricultural reserve.
- 1182 (l) A Principal Secondary Residential Street is a Secondary Residential
 1183 Street meant to carry somewhat more through traffic.
- 1184 ~~[(m) A Secondary Residential Street is a road meant nearly exclusively for~~
 1185 ~~access to abutting property in residential zones.]]~~
- 1186 (m) A Secondary Residential Street is a road meant to provide access
 1187 between a residential development with fewer than 200 dwelling units
 1188 and one or more higher classification roads as defined in subsections (b)
 1189 through (l).

1190 (n) A Tertiary Residential Street is a road meant [[exclusively for access to
 1191 abutting property in residential zones]] to provide direct access to a
 1192 residential development with 75 or fewer dwelling units. A Tertiary
 1193 Residential Street must not be built unless the Planning Board allows its
 1194 use when the Board approves a preliminary subdivision plan or site
 1195 plan.

1196 (o) A Rustic Road or an Exceptional Rustic Road means a road classified as
 1197 either under Article [[VII]] 8.

1198 (p) An Alley is a right-of-way intended to provide secondary service access
 1199 to the rear or side of lots or buildings and [[is]] not intended for [[the
 1200 purpose of]] transporting through traffic. An alley may be used to
 1201 provide primary vehicular access if the Planning Board and the Director
 1202 of Public Works and Transportation concur that the dimensions and
 1203 specifications proposed in a project, preliminary subdivision, or site
 1204 plan would provide adequate primary vehicular access.

1205 **49-32. [[Minimum requirements]] Design standards for types of roads.**

1206 (a) The design standards [[in the table below]] adopted under this Article
 1207 govern the construction or reconstruction of any County road except
 1208 Rustic Roads and Exceptional Rustic Roads. [[If special circumstances
 1209 warrant, the Planning Board may adopt, as a condition of preliminary
 1210 subdivision plan or site plan approval, alternative standards for a
 1211 specific road.]] If the Planning Board, in approving a subdivision or site
 1212 plan, determines that a waiver from any applicable design standard is
 1213 necessary to promote context-sensitive design of a specific road, the
 1214 Executive or the Executive's designee must adopt the Board's
 1215 recommendation unless the Executive or the designee concludes that
 1216 approving the waiver would significantly impair public safety. [[, and

217 the]] The County Council may adopt alternative standards for a specific
 218 road constructed or reconstructed in a project in the approved capital
 219 improvements program.

220 (b) A limited segment of a County road may be designed to vary slightly
 221 from the applicable standards, criteria, or specifications, as necessary to
 222 adjust to site-specific conditions, as long as the road’s typical cross-
 223 section and other attributes conform to the applicable standards, criteria,
 224 or specifications. [[Before a segment’s typical cross-section or other
 225 attribute can vary from the applicable standards, criteria, or
 226 specifications, the Planning Board or the Council, as applicable, must
 227 adopt an alternative standard under subsection (a).]] The regulations
 228 adopted under this Article must include a process by which the
 229 Department that approves a limited design variance under this
 230 subsection regularly notifies other affected County departments, the
 231 Planning Board, and the public of each variance.

232 (c) In this [[Section,]] Article and the standards adopted under it:

233 (1) an ‘urban’ road is a road segment in or abutting a Metro Station
 234 Policy Area, Town Center Policy Area, or other urban area
 235 expressly identified in a Council resolution[[,]]:

236 (2) a ‘rural’ road is a road segment located in a rural policy area as
 237 defined in the County Growth Policy; and

238 (3) [[an ‘other’]] a ‘suburban’ road is a road segment located
 239 elsewhere in the County.

<u>[[Classification</u>	<u>Road/Lane</u> <u>Width (‘urban’)</u>	<u>Road/Lane</u> <u>Width (‘other’)</u>	<u>Planned</u> <u>Bike Lanes</u>	<u>Sidewalk</u> <u>(‘urban’)⁶</u>	<u>Sidewalk</u> <u>(‘other’)⁶</u>
<u>Freeway</u>	<u>12’ lanes</u>	<u>12’ lanes</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Controlled Major Highway¹</u>	<u>12’ lanes</u>	<u>12’ lanes</u>	<u>5’ wide²</u>	<u>5+’ wide</u>	<u>5’ wide</u>

<u>Major Highway</u> ^{1,3}	<u>11' lanes</u>	<u>12' lanes</u>	<u>5' wide</u> ²	<u>5+' wide</u>	<u>5' wide</u>
<u>Parkway</u> ¹	<u>11' lanes</u>	<u>11' lanes</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Arterial</u> ^{1,4}	<u>10.5' lanes</u>	<u>12' lanes</u>	<u>5' wide</u> ²	<u>5+' wide</u>	<u>5' wide</u>
<u>Country Arterial</u> ⁴	<u>not applicable</u>	<u>22' road</u>	<u>5' wide</u> ²	<u>none</u>	<u>none</u>
<u>Minor Arterial</u> ^{1,4}	<u>10.5' lanes</u>	<u>11' lanes</u>	<u>4' wide</u> ²	<u>5+' wide</u>	<u>4' wide</u>
<u>Business District Street</u> ¹	<u>10.5' lanes</u>	<u>11' lanes</u>	<u>none</u>	<u>5+' wide</u>	<u>5' wide</u>
<u>Industrial Street</u> ¹	<u>10.5' lanes</u>	<u>11' lanes</u>	<u>none</u>	<u>5+' wide</u>	<u>5' wide</u>
<u>Primary Residential Street (no curbs)</u>	<u>not applicable</u>	<u>20' road</u>	<u>3' wide</u> ²	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, no parking)</u> ⁵	<u>22' road</u>	<u>22' road</u>	<u>3' wide</u> ²	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, 1-side parking)</u> ⁵	<u>28' road</u>	<u>28' road</u>	<u>3' wide</u> ²	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, 2-side parking)</u> ⁵	<u>34' road</u>	<u>34' road</u>	<u>3' wide</u> ²	<u>5+' wide</u>	<u>4' wide</u>
<u>Country Road</u>	<u>not applicable</u>	<u>20' road</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Principal Secondary Residential Street (no curbs)</u>	<u>not applicable</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Principal Secondary Residential Street (with curbs, no parking)</u>	<u>22' road</u>	<u>22' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Principal Secondary Residential Street (with curbs, 1-side parking)</u>	<u>28' road</u>	<u>28' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Principal Secondary Residential Street (with curbs, 2-side parking)</u>	<u>34' road</u>	<u>34' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Secondary Residential Street (no curbs, no parking)</u>	<u>not applicable</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Secondary Residential Street</u>	<u>20' road</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>

<u>(with curbs, no parking)</u>					
<u>Secondary Residential Street</u>	<u>20' road</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>(with curbs, 1-side parking)</u>					
<u>Secondary Residential Street</u>	<u>24' road</u>	<u>24' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>(with curbs, 2-side parking)</u>					
<u>Tertiary Residential Street</u>	<u>20' road</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Alley</u>	<u>20' road</u>	<u>16' road</u>	<u>none</u>	<u>none</u>	<u>none]]</u>

- 1240 [(1) Add 1 foot of width to each lane abutting an outside curb. Add another 1
 1241 foot of width to each lane abutting an outside curb if a shared-use roadway is
 1242 consistent with the Countywide Bikeways Functional Master Plan or the
 1243 applicable area master or sector plan.
- 1244 (2) Bike lanes must be included when a road is constructed or reconstructed only
 1245 if bike lanes are consistent with the Countywide Bikeways Functional
 1246 Master Plan or the applicable area master or sector plan. This bike lane
 1247 width replaces the added width under paragraph (1).
- 1248 (3) For an open-section Major Highway add 4 feet of width on each road edge
 1249 for a paved shoulder. If a bike lane is provided on a road edge, the bike lane
 1250 replaces this additional width.
- 1251 (4) For an open-section Arterial, Country Arterial, or Minor Arterial add 2 feet
 1252 of width beyond the edge of the outside lane for a paved shoulder. If a bike
 1253 lane is provided on a road edge, the bike lane replaces this additional width.
- 1254 (5) For a Primary Residential Street, the total curb-to-curb width must be the
 1255 sum of the road width and any master-planned bike lane widths.
- 1256 (6) Sidewalks are required on both sides of roads and streets except for
 1257 Secondary and Tertiary Residential Streets, where the Planning Board may
 1258 require a sidewalk on either one or both sides of a street, depending on the
 1259 housing density and potential use of sidewalks. Alleys must not have
 1260 sidewalks.]]
- 1261 [(b)] (d) The minimum right-of-way for a road may be specified in the
 1262 applicable master plan or sector plan for the area where the road is

1263 located. If a minimum right-of-way for a particular road is not specified
 1264 in a master plan or sector plan, the minimum right-of-way must be:

- 1265 (1) 80 feet for a Business District Street or Industrial Street;
 1266 (2) 100 feet for a Primary Residential Street with a median;
 1267 (3) 70 feet for a Primary Residential Street without a median;
 1268 (4) 60 feet for a Principal Secondary Residential Street or Secondary
 1269 Residential Street;
 1270 (5) 50 feet for a standard Tertiary Residential Street;
 1271 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
 1272 with two-way traffic;
 1273 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
 1274 with one-way traffic; and
 1275 (8) 20 feet for an Alley.

1276 [(c) The maximum curb return radius for an intersection is:

- 1277 (1) 15 feet for an intersection of 'urban' roads, with adjustments for
 1278 fire and rescue vehicles in the form of rolled or mountable curbs,
 1279 sufficient parking setbacks, and the prohibition of lateral
 1280 obstructions at corners; and
 1281 (2) 25 feet for an intersection of 'other' roads.]]

1282 [(d)] (e) Grass shoulders must be load bearing at specific locations
 1283 designated by the Director of Permitting Services after consulting the
 1284 [[Directors of]] Fire [[and Rescue Services]] Chief and Director of
 1285 Public Works and Transportation.

1286 [(e) Trees may be planted in a median if the design speed of the road does
 1287 not exceed 40 miles per hour. The median must be at least:

- 1288 (1) 8 feet wide to accommodate trees that will grow to no more than
 1289 a 4-inch diameter at maturity; and

1290 (2) 12 feet wide to accommodate any tree that will grow larger than a
 1291 4-inch diameter at maturity.]]

1292 [[f) A landscape panel abutting a closed-section road must extend at least 5
 1293 feet from the curb and be at least 8 feet long. Trees planted in landscape
 1294 panels along ‘urban’ roads must be at least 30 feet apart unless the tree
 1295 spacing is interrupted by a public street or driveway.]]

1296 [[g)] (f) Unless otherwise specified in this Article, each grading, drainage
 1297 structure, paving, shoulder, landscaping, and traffic control must be
 1298 installed as provided in the latest applicable County design standards,
 1299 storm drain criteria, and specifications. [[In addition,]] Unless
 1300 extenuating circumstances would result in a safety hazard, when a road
 1301 is resurfaced[[,]] the road [[may]] must also be restriped to meet any
 1302 applicable lane width standard and may include bike lanes where
 1303 appropriate.

1304 **[49-35] 49-33. [General provisions] Road construction requirements.**

1305 (a) [Whenever] If alternative standards and specifications are [provided for]
 1306 allowed in [the preceding section] Section 49-32, any one [(1)]
 1307 alternative may be [chosen at the option of] selected by the [person
 1308 applying] applicant for a permit, subject to the approval of the Director
 1309 of Permitting Services.

1310 (b) The [county shall] [[County]] Department of Public Works and
 1311 Transportation must erect, or order a permittee to erect, name signs at
 1312 all road intersections. [[The party managing the construction (either the
 1313 County or the permittee) must install regulatory signs and markings in
 1314 each public right-of-way as required by a signing and marking plan
 1315 approved by the Department of Public Works and Transportation.]] If
 1316 the Director of Public Works and Transportation finds that traffic

1317 control or vehicular or pedestrian safety so requires, the Director may
 1318 order a permittee to install traffic control signs, markings, or other
 1319 devices on any right-of-way that will be publicly maintained.

1320 (c) [Temporary backarounds] ~~[[Backarounds]]~~ Cul-de-sacs or turnarounds
 1321 [shall be] are required [wherever] if the paving of a road ends
 1322 [otherwise] other than at a paved road intersection. [Such] ~~[[The]]~~ Each
 1323 turnaround or ~~[[backaround]]~~ cul-de-sac [shall] must be graded, paved,
 1324 and [shall] include appropriate drainage structures and temporary curbs,
 1325 if [required by] the [County] Department of Permitting Services so
 1326 requires.

1327 (d) [Where] If a preliminary drainage study indicates that a minimum right-
 1328 of-way or storm drain easement width [established] required in this
 1329 Article is inadequate ~~[[for proper drainage of]]~~ to properly drain a
 1330 particular road, the [county] Department of Permitting Services may
 1331 require [such] any additional right-of-way or storm drain easement [as is
 1332 found] necessary for [such] proper drainage, [purposes; provided, that
 1333 such requirement shall be made prior to the final approval and recording
 1334 of] ~~[[, but the]]~~ The Department must notify the permittee of any added
 1335 right-of-way ~~[[or easement]]~~ before a dedication plat [among] is
 1336 approved by the Planning Board (or equivalent body in any
 1337 municipality with land use authority) and recorded in the County land
 1338 records [of the County], and must notify the permittee of any added
 1339 easement when it approves a right-of-way permit.

1340 (e) [Where] If a lot or lots front on a public road, the permittee must install
 1341 sidewalks, curbs, and gutters [must be installed], except on any
 1342 [residential road] Secondary or Tertiary Residential Street, [service
 1343 drive, marginal access road,] or [dual lane road (as those terms are used

1344 in Section 49-34)] Service Drive fronting on any lot in a residential
 1345 zone. This requirement does not apply if the minimum net lot area for a
 1346 one-family detached dwelling in that zone is [larger] ~~[[less]]~~ larger than
 1347 25,000 square feet, except that a sidewalk must be installed on any
 1348 primary or higher classification road. [The exception in the previous
 1349 sentence does not apply] However, the Planning Board may require
 1350 sidewalks, curbs, and gutters in any such zone if the [Planning] Board
 1351 finds, as a condition of approval of a preliminary subdivision plan or
 1352 site plan, that sidewalks, curbs, and gutters at that location are necessary
 1353 to allow access:

- 1354 (1) to ~~[[an existing]]~~ a sidewalk;
 1355 (2) to a bus or other public transit stop;
 1356 (3) to an amenity or public facility that will be used by occupants of
 1357 the site or subdivision; or
 1358 (4) by persons with disabilities.

1359 Before the Planning Board approves any [condition] requirement under
 1360 the preceding sentence, the [Planning] Board must give the
 1361 [Department] Departments of Permitting Services and [the Department
 1362 of] Public Works and Transportation a reasonable opportunity to
 1363 comment on the proposed [condition] requirement.

1364 [(f) In the event a minimum right-of-way prescribed by the preceding
 1365 section is less than that established for a given road by a zoning or
 1366 highway plan approved by the Maryland-National Capital Park and
 1367 Planning Commission or the County Council, then the width as
 1368 established by such zoning or highway plan shall prevail and the
 1369 minimum construction requirements for that road shall meet such

1370 standards and specifications as are found necessary and appropriate for
 1371 such width by the County.]

1372 [(g)] (f) The construction of half roads or any road of less than the [minimum]
 1373 width [as] required by this Article is prohibited. [; provided, that]
 1374 However, construction of such portions of roads [shall be] is permitted
 1375 [where] if the dedicated portion of the road established by a dedication
 1376 plat and recorded [among] in the County land records [of the County
 1377 prior to] before August 15, 1950[,] is [of sufficient width] wide enough
 1378 to permit the grading and construction of paving [eighteen (18) feet in
 1379 width] 18 feet wide with curbs, [and] gutters, and sidewalks [as are]
 1380 required [by the design standards in those sections of this Article
 1381 applicable to the particular classification] for the type of [the] road
 1382 [under consideration].

1383 (g) [No] A road [shall] must not be constructed unless it connects with an
 1384 existing public road at one [(1)] end, [thereof, and no] A road [shall]
 1385 must not be constructed short of an intersection [except where] unless it
 1386 connects with an existing public road or [where] the dedication of the
 1387 right-of-way ends short of an intersection. [Where] If any road
 1388 construction ends at or goes through an intersection, the intersection
 1389 [shall] must be completed. [, and if it] If a road ends at other than an
 1390 intersection or a point of connection with an existing road, [then]
 1391 turnarounds or [[backgrounds]] cul-de-sacs [shall] must be provided.

1392 (h) [Whenever] If drainage structures are required for any particular class of
 1393 road, the Planning Board must require the applicant to install or
 1394 construct drainage structures that the [Planning] Board [determines]
 1395 finds are necessary or appropriate, after reviewing a preliminary
 1396 drainage study approved by the Department of Public Works and

- 1397 Transportation, in accordance with applicable design standards and [all
1398 applicable] specifications.
- 1399 (i) Driveway entrances to individual lots [shall be] must be required [upon
1400 a finding] if the Planning Board finds that off-street parking facilities
1401 are necessary and practicable.
- 1402 (j) *Street trees.*
- 1403 (1) On public road rights-of-way, street trees must be planted in
1404 accordance with design standards of the Department of Public
1405 Works and Transportation. On private road rights-of-way and
1406 easements, street trees must be planted in accordance with the
1407 technical manual adopted by the Planning Board under Chapter
1408 22A.
- 1409 (2) The [Director] Department of Permitting Services, the
1410 Department of Public Works and Transportation, and the
1411 [planning] staff of the Planning Board should coordinate the
1412 specific location and species of street tree plantings [in order] to
1413 promote compatibility of the plantings with road function and
1414 safety, signage, maintenance, appropriate [noise and] visual
1415 buffering, utilities, other public or private improvements, and
1416 aesthetic considerations related to streetscape design.
- 1417 (k) *Ground cover.*
- 1418 (1) A property owner may plant and maintain ground cover in a
1419 public right-of-way adjacent to the owner's property if the owner:
- 1420 (A) complies with regulations issued under paragraph (3);
- 1421 (B) maintains the ground cover to prevent any obstruction of
1422 the public right-of-way prohibited under Section [49-17]
1423 49-10; and

1424 (C) holds the County harmless for any damage to the ground
 1425 cover, and any damage or injury caused by the ground
 1426 cover.

1427 However, ground cover in a public right-of-way adjacent to the
 1428 owner's property [[must not exceed a maximum height of 18
 1429 inches, and]] must not be planted where it will reduce public
 1430 safety or impede travel.

1431 (2) In this subsection, property owner or owner includes each person
 1432 with a legal interest in the property and any successor to that
 1433 person's interest.

1434 (3) The Director of Public Works and Transportation, after
 1435 consulting the [Director] Directors of Environmental Protection
 1436 and [the Director of] Permitting Services, must issue [regulations]
 1437 guidelines that allow and encourage a property owner to place
 1438 and maintain ground cover in the public right-of-way adjacent to
 1439 the owner's property. The [regulations] guidelines must
 1440 encourage use of ground cover that is environmentally sensitive
 1441 and promotes conservation of natural resources and more
 1442 sustainable landscaping, including plant species that:

1443 (A) require reduced or no mowing, fertilizing, or other
 1444 maintenance;

1445 (B) are drought tolerant and require little watering at any time;

1446 (C) do not inhibit growth of nearby trees; and

1447 (D) include non-turf grasses.

1448 (4) Except as provided in paragraph (1), this subsection does not
 1449 impair the County's right to enter, maintain, occupy, or otherwise
 1450 control any public right-of-way for any purpose.

1451 (l) Curbs and gutters.

1452 (1) A person must not install any curb or gutter in any portion of a
1453 road that is located in:

1454 (A) an environmentally sensitive watershed area, including a
1455 Class III, Class IV, or high-quality Class I watershed, as
1456 designated by the [state] Maryland Department of the
1457 Environment; or

1458 (B) ~~[[a headwaters]]~~ an area that the Department of
1459 Environmental Protection designates as environmentally
1460 sensitive, after giving the Department of Public Works and
1461 Transportation and the Planning Board a reasonable
1462 opportunity to comment.

1463 (2) The Director of Permitting Services may [approve the installation
1464 of] allow a person to install curbs and gutters in a portion of a
1465 road located in an area listed in paragraph (1), after giving the
1466 [Department of Environmental Protection and] the Planning
1467 Board a reasonable opportunity to comment, if:

1468 (A) installing curbs and gutters will not significantly degrade
1469 water quality in the area;

1470 (B) curbs and gutters are necessary for vehicular or pedestrian
1471 safety or the proper grading or maintenance of the road, or
1472 to reduce the environmental impact of the road on any
1473 park, forest, or wetland; and

1474 (C) a preliminary subdivision plan or site plan approved by the
1475 Planning Board for the land abutting the portion of the
1476 road where curbs and gutters may be installed expressly

1477 permits the curbs and gutters to be installed, if either plan
1478 is required for the land in question.

1479 **[49-36. Classification by county executive.**

1480 No person shall construct any road and the county shall not authorize any road
1481 to be constructed or issue any permit therefor, until such proposed road shall have
1482 been classified by the county executive as prescribed in this section. All
1483 classifications of roads shall be by written regulation, adopted by the county
1484 executive under method (2) of section 2A-15 of this Code, which shall include a
1485 statement of facts and conclusions in support thereof. Classifications of any road
1486 may be changed from time to time in like manner. An alphabetical name file of all
1487 roads within the county to which this article applies, indicating their classification
1488 and status as either "maintained," "accepted for maintenance" or "not maintained"
1489 shall be kept by the county. A similar file listing all roads according to election
1490 district and road number shall also be kept.]

1491 **[49-37] 49-34. Construction by [county] County.**

- 1492 (a) [No] The County must not construct any road [shall be constructed by
1493 the county, whether on force account or by contract or both,] unless:
- 1494 (1) the County has previously acquired the right-of-way for [such]
1495 the road, [has been previously acquired by the county] or the
1496 right-of-way has been dedicated to public use by appropriate
1497 recording [among] in the County land records [of the county,];
1498 and
- 1499 (2) the cost of the road [is to] will be charged against the benefited
1500 property in accordance with [sections] Sections 49-51 to 49-61
1501 and subsection (b) of this [section] Section.
- 1502 (b) [Any road so constructed shall conform to the minimum requirements,
1503 standards, and specifications for its particular classification as

1504 prescribed by this article. The county may require such construction to
 1505 be in excess of or better than that prescribed as a minimum.] Nothing in
 1506 this [Section] Article prohibits the [county] County from constructing a
 1507 road under a contract with a municipality or [pursuant to] an agreement
 1508 between the [county] County and another government agency.

1509 [(b)] (c) [Whenever] If a road is constructed as a “front foot assessment”
 1510 project[, pursuant to sections] under Sections 49-51 to 49-61, the
 1511 [portion of the] cost chargeable and assessed to the benefited abutting
 1512 properties [shall] must be all costs of construction, including costs of
 1513 design and of [acquisition of] acquiring land or any interest [therein,] in
 1514 land for right-of-way.

1515 [(c)] (d) All costs in excess of the special benefit to the abutting property or
 1516 otherwise waived in this [article shall] Article must be borne by the
 1517 [county] County.

1518 [(d)] [(e)] The [minimum] requirements of [section 49-34 shall] Section 49-32
 1519 do not apply to any front foot benefit [projects] project authorized for
 1520 advertising [prior to] before August 16, 1950[; provided,] if that [such
 1521 projects shall be constructed subject to the provisions of] project
 1522 conformed to Ordinance S-73[, which ordinance shall be deemed to be
 1523 in full force and effect for such purpose].]]

1524 [(e)] [(f)] (e) The [county] County Executive may authorize the construction
 1525 of [bikeways] shared use paths or [temporary] sidewalks to serve
 1526 general community needs. [Notwithstanding any other provision of this
 1527 article, such sidewalks or bikeways may be constructed without regard
 1528 to the standards and specifications of this article, and the cost of
 1529 construction thereof shall be borne by the county.] Whenever [such] a
 1530 sidewalk or [bikeway] shared use path is [constructed within] built in a

1531 right-of-way where there is no pavement or other road construction,
 1532 [such construction shall not be construed as acceptance for maintenance
 1533 by the county of] building the sidewalk or shared use path does not
 1534 mean that the County is responsible for maintaining any part of the
 1535 right-of-way except the sidewalk or [bikeway] shared use path [so
 1536 constructed].

1537 **[49-38] 49-35. Permits for grading and construction [--Required;**
 1538 **application; fee].**

1539 (a) (1) A person must not construct any road, sidewalk, shared use path,
 1540 curb and gutter, driveway, or drainage structure, or begin any
 1541 such construction (including clearing, grading, and tree cutting),
 1542 without a permit from the Director of Permitting Services.

1543 (2) In this Section and Sections 49-36 and 49-37, Director refers to
 1544 the Director of Permitting Services and Department refers to the
 1545 Department of Permitting Services.

1546 (3) A person must apply for a permit on forms prescribed by the
 1547 Director [of Permitting Services], [including] submit detailed
 1548 plans and specifications, and include locations and record plats
 1549 approved by the Department [of Permitting Services] and the
 1550 Planning Board.

1551 (4) If the proposed activity requires a sediment control permit, the
 1552 [appropriate governmental entity] Department must issue the
 1553 permit before any activity occurs under a permit issued under this
 1554 subsection. The State Highway Administration must approve
 1555 [matters within] any action under its jurisdiction before the
 1556 Director may approve the permit.

- 1557 (5) As a requirement to issue a permit under this Section, the
 1558 Director may require the applicant to designate and bond a haul
 1559 route for construction materials, as described in Section 49-8.
- 1560 (b) Before an applicant begins any road, sidewalk, curb and gutter,
 1561 driveway, retaining wall, steps, or drainage project, [[except a project
 1562 which is [entirely] solely a grading project,]] [may be begun] on a road
 1563 or within the boundaries of a dedication to [the] public use, the applicant
 1564 for a permit to undertake any such project [shall] must pay to the
 1565 County [a] an inspection and engineering fee [which shall be
 1566 established] set by the County Executive by [written regulation adopted
 1567 under] method (3) regulation [of Section 2A-15 of this Code].
- 1568 (c) [Where] If any such project is [entirely] solely a grading project, the
 1569 applicant [shall] must pay [a fee to the County as] an inspection and
 1570 engineering fee to the County [when the office of the Director] if
 1571 Department staff does the engineering work on [such] the project and [a
 1572 separate] an inspection fee [when] if the applicant [for the permit
 1573 furnishes] submits the engineering work. [The fees for grading projects
 1574 shall be established and may be revised from time to time by the County
 1575 Executive by written regulation adopted under method (3) of Section
 1576 2A-15 of this Code.]
- 1577 (d) Any [person who violates any provision] violation of [subsections]
 1578 [[subsection (a), (b), [and] (c), (f), or (g)]] [of this section shall be
 1579 subject to punishment for] this Section is a Class A violation [as set
 1580 forth in Section 1-19 of Chapter 1 of the County Code. Each day a
 1581 violation continues to exist shall constitute a separate offense].
- 1582 (e) Half the fees [prescribed in] required by this [section shall] Section must
 1583 be refunded to the applicant if [his] a permit is [denied] rejected or

1584 withdrawn prior to the commencement of construction. [In the event] If
 1585 an applicant proposes to undertake a project using materials, standards,
 1586 or specifications superior to [the minimum requirements of] those
 1587 required under this [article] Article, the fees [shall] charged must be
 1588 computed [upon] on the estimated cost of the project as if it [were to be
 1589 done according to the minimum] met those requirements.

1590 (f) A person, including any utility corporation, must not cut a road [for the
 1591 purpose of installing or connecting] to install or connect any
 1592 underground gas, electric power, or telephone [lines] line, or any other
 1593 underground infrastructure, without a permit from the Director [of
 1594 Permitting Services]. The Director [of Permitting Services] must
 1595 supervise all backfilling and repaving of utility trenches to [ensure]
 1596 assure that the permittee complies with [standard 60 and] all applicable
 1597 specifications.

1598 (g) [[A person must not construct sidewalks, driveway entrances, retaining
 1599 walls, or steps, or cut curbs, without a permit from the Director [of
 1600 Permitting Services], and without paying a fee [that the County
 1601 Executive may] set [from time to time] by regulation adopted under
 1602 method (3).

1603 (h)] An aggrieved person may file an appeal with the County Board of
 1604 Appeals from a denial, suspension, or revocation of a permit issued
 1605 under this Section within 10 days of the denial, suspension, or
 1606 revocation.

1607 **[49-39] 49-36. [Conditions] Permit conditions and procedures.**

1608 [The Director may issue construction permits only on] Each permit issued
 1609 under Section 49-35 must be subject to the following conditions, which the permit
 1610 must specify:

- 1611 (a) Irrespective of the plans and specifications [accompanying] filed with
1612 the application, the actual construction [shall] must conform to law and
1613 to the [minimum] requirements for a road of its class.
- 1614 (b) [Such permit shall be] A permit is nontransferable. [It shall be] A
1615 permit becomes immediately invalid if any provision [thereof] of the
1616 permit is violated.
- 1617 (c) The permit [must] automatically [expire] expires 18 months after its
1618 issuance unless [extended in writing by] the Director [of Permitting
1619 Services] specifies a shorter or longer term when issuing the permit or
1620 later approves an extension, stating the reasons for the extension.
1621 However, a permit to reconstruct, repair, or otherwise close a sidewalk
1622 is subject to the durational and other restrictions in Section ~~[[49-18]]~~ 49-
1623 11. [An extension] The Director must not [be granted] approve an
1624 extension unless the bond filed with the permit by its term continues in
1625 full force and effect, a new bond is filed, or the applicant obtains the
1626 consent of the surety to the extension [is obtained].
- 1627 (d) The permittee and the permittee's agents, [servants] employees, and
1628 subcontractors must comply with all approved plans, written
1629 requirements, and permit conditions that the Director [of the
1630 Department of Public Works and Transportation] specifies, either before
1631 or during the [course of] grading or construction, that the Director finds
1632 necessary to protect public safety or [to] avoid unnecessary
1633 inconvenience to the public during the grading or construction.
- 1634 (e) Any authorized official or employee of the County must be able to
1635 inspect the construction work materials, plans, and specifications at all
1636 times. A permittee must notify the Department [of Public Works and

1637 Transportation] at least 48 hours before starting any construction for
 1638 which the Department issued the permit.

1639 (f) [No] The Director must not issue a permit for paving [shall be issued]
 1640 unless [there has been a final inspection and approval of] the
 1641 Department has inspected and approved the grading [by the Director].

1642 (g) For any proposed road construction [The] the permittee must post a
 1643 notice in a conspicuous place on each project site as near to a public
 1644 road as practicable. The notice must take the form of a sign that the
 1645 Department [of Permitting Services] must furnish to the permittee when
 1646 the Department issues the permit. The sign must state that the
 1647 construction is authorized by the Department of Permitting Services
 1648 under permit and must display the permit number. The permittee must
 1649 post the sign continuously during construction of the work covered by
 1650 the permit and until final inspection. A person must not remove the sign
 1651 until the Department completes its final inspection. If any other person
 1652 removes the sign or if the sign is damaged, lost, or destroyed, the
 1653 permittee must replace the sign within 24 hours, excluding Saturdays
 1654 and Sundays. The Department [of Permitting Services] must issue new
 1655 signs upon request to replace signs that are damaged, lost, or destroyed.
 1656 A permittee who does not comply with this subsection [must pay \$50 to
 1657 the County, and any other penalties in this Article do not apply] has
 1658 violated the permit.

1659 (h) [No permit shall be issued] The Director must not issue a permit for
 1660 construction unless the right-of-way has been acquired by the County or
 1661 [has been] dedicated to public use[,], and [such] the acquisition or
 1662 dedication has been [duly] recorded [among] in the County land records
 1663 [of the County].

1664 (i) [Whenever] If the Director [of Permitting Services] finds that a person
 1665 has violated the conditions of any permit, the Director [of Permitting
 1666 Services] may order the permittee to stop construction and may revoke
 1667 the permit. The [willful] refusal of any permittee to stop construction
 1668 after receiving notice of a stop-work order is a separate ~~[[a]]~~ violation of
 1669 this Article.

1670 (j) If the Director of Permitting Services finds that the standards and
 1671 specifications are not feasible or practicable for a particular project, the
 1672 Director of Permitting Services may require alternate or additional
 1673 standards and specifications in accordance with good engineering
 1674 principles, as necessary, and the alternate or additional requirements
 1675 must be a condition of the permit.]

1676 **[49-39A. Permits for grading and construction – Appeal.]**

1677 ~~[[k]]~~ (j) An aggrieved person may file an appeal with the County Board of
 1678 Appeals from the issuance of a stop-work order or the imposition of
 1679 additional conditions under this Section [49-39]. The appeal must be
 1680 filed with the Board within 10 days [of the issuance of] after the stop-
 1681 work order is issued or the [imposition of] additional conditions are
 1682 imposed.

1683 **[49-40] 49-37. Street and road bonds.**

1684 (a) (1) [A] Before beginning any grading or construction, a permittee
 1685 under this Article must[, before beginning any grading or
 1686 construction,] deliver to the County acceptable security in the
 1687 form of an irrevocable letter [or] of credit from a financial
 1688 institution, cash bond, corporate bond, certificate of guarantee, or
 1689 other instrument approved by the County Attorney. [and in] The
 1690 security must guarantee an amount [estimated by the Director of

1691 Permitting Services] that the Director estimates to be the total
 1692 cost to perform all work necessary to complete the subdivision's
 1693 streets and roads, including any necessary repairs, in a manner
 1694 suitable for acceptance by the County. As used in this Section,
 1695 acceptable security includes any such letter of credit, bond,
 1696 certificate, or other acceptable instrument.

1697 (2) [For the purposes of] As used in this Article, a certificate of
 1698 guarantee is an instrument issued by an organization or entity
 1699 which is approved by the Director [of Permitting Services] and
 1700 meets [the] capitalization and other reasonable criteria established
 1701 by [executive] regulation. Other criteria may include the
 1702 demonstrated expertise of the issuing organization or its members
 1703 in construction of streets and roads; the estimated cost of the
 1704 work to be performed by the permittee; the estimated cost of all
 1705 work guaranteed by the issuing organization or entity; and the
 1706 incidence of violation of, or otherwise failing to comply with, this
 1707 Section by all members of the issuing organization or entity. The
 1708 certificate of guarantee must only be issued by the approved
 1709 organization or entity on behalf of members in good standing of
 1710 that organization or entity. The member for whom the certificate
 1711 is issued must qualify as a ["developer or subdivider["] as
 1712 defined in Section 50-1. [Any] The Director must resolve any
 1713 question [as to] about the eligibility of a permittee to post a
 1714 certificate of guarantee [must be resolved by the Director of
 1715 Permitting Services] in the Director's sole discretion.

1716 [(2)] (3) [Such letter of credit, cash bond, corporate bond, certificate of
 1717 guarantee or other instrument shall] Any acceptable security must

1718 run to the County[,] and [be conditioned as follows] specify that
 1719 the permittee and all agents and employees must:

1720 ~~[(a.)]~~ (A) [That the permittee, his agents and employees, will]
 1721 comply with all [the] applicable terms, conditions,
 1722 [provisions,] requirements, standards, and specifications of
 1723 this Article[.] and any other applicable law;

1724 ~~[(b.)]~~ (B) [That the permittee, his agents and employees, will]
 1725 faithfully complete the work for which the permit is
 1726 issued[.]; and

1727 ~~[(c.)]~~ (C) [That the permittee, his agents and employees, will
 1728 save harmless] indemnify the County from any expense
 1729 incurred [through] because of the failure of the permittee[,
 1730 his agents and employees,] or any agent or employee to
 1731 complete the work as required by this Article, [or] and
 1732 from any damages growing out of the negligence of the
 1733 permittee or [his agents or employees] any agent or
 1734 employee.

1735 (b) [In lieu of satisfying the requirements in subsection (a):]

1736 (1) (A) Instead of satisfying the requirements of subsection (a), a
 1737 permittee may file [a cash or corporate bond, an irrevocable letter
 1738 of credit, certificate of guarantee or other instrument] an
 1739 acceptable security approved by the County Attorney in an
 1740 amount [approved by] that the Director [of Permitting Services to
 1741 cause] finds would assure appropriate stabilization of the ground
 1742 surface of any proposed road [projects] project if:

1743 ~~[(a.)]~~ (A) the permittee is a ["developer or subdivider"] as
 1744 defined in Section 50-1, [with] and the Director may

1745 resolve any question as to the permittee's status [being
 1746 resolved by the Director of Permitting Services] in the
 1747 Director's sole discretion; and

1748 ~~[[b.]]~~ (B) the permittee files [among] in the County land
 1749 records, subject to the approval of the County Attorney and
 1750 the Director [of Permitting Services], a master deed or
 1751 covenant delineating the entire subdivision and [stating]
 1752 providing that no lot or parcel has been or may be sold or
 1753 otherwise alienated until the road running between that lot
 1754 or parcel and an existing public road is constructed,
 1755 approved, and accepted by the County for maintenance, or
 1756 until the County accepts [a road construction cash or
 1757 corporate bond, irrevocable letter of credit, certificate of
 1758 guarantee or other instrument ensuring] an acceptable
 1759 security assuring the completion of the subdivision streets
 1760 and roads. This [provision] subparagraph does not prohibit
 1761 the sale of all or a substantial portion of any subdivision to
 1762 one or more other developers or subdividers.

1763 (2) In determining the conditions and the amount of the [stabilization
 1764 bond, irrevocable letter of credit, certificate of guarantee or other
 1765 instrument] acceptable security, the Director [of Permitting
 1766 Services] may [establish] set reasonable criteria based on
 1767 practical, engineering, environmental or other considerations,
 1768 including:

1769 [a.] (A) [The] the estimated cost of the work to be performed, in
 1770 order to assure sufficient protection to the property on or
 1771 adjacent to the subject subdivision from harm [due to]

1772 caused by storm water, sediment, or other factors resulting
1773 from grading, constructing, or otherwise disturbing the
1774 right-of-way; and

1775 [b.] (B) [The] the estimated cost of removing or repairing any
1776 hazardous [conditions] condition resulting from the
1777 operation of the developer's or subdivider's equipment.

1778 (3) [When] If the Director [of Permitting Services] finds that a road
1779 or portion of a road is necessary to protect the public safety or
1780 welfare or to connect other subdivisions to public highways,
1781 subsection (b)(1) does not apply and the Director [of Permitting
1782 Services] may require [a performance bond, irrevocable letter of
1783 credit, certificate of guarantee or other instrument for the
1784 completion of] an acceptable security to complete the applicable
1785 road or portion of road [so determined].

1786 (4) The Director [of Permitting Services] may at any time, after
1787 finding a violation of an applicable law, regulation, or the terms
1788 and conditions of the permit, revoke the permit and proceed
1789 against the [bond, letter of credit, certificate of guarantee or other
1790 instrument] security posted to [ensure] assure the appropriate
1791 stabilization of the ground surface of the proposed road project.
1792 The Director [of Permitting Services] may post stop-work orders
1793 throughout the subject subdivision until an [appropriate bond,
1794 letter of credit, certificate of guarantee or other instrument]
1795 acceptable security is posted which [ensures] assures the
1796 performance of all work necessary to complete the streets and
1797 roads, including any necessary repairs.

- 1798 (c) Before acceptance, [all irrevocable letters of credit, bonds, certificates of
1799 guarantee and other instruments] each proposed security must be
1800 approved by the County Attorney. If a corporate bond is offered, it
1801 must be executed by a surety or guaranty company qualified to transact
1802 business in the state. If a cash bond is offered, it must be deposited with
1803 the Director of Finance, who must give an official receipt [therefor,]
1804 reciting that the cash bond has been deposited in compliance with, and
1805 subject to, this Section. [Cash and corporate bonds, letters of credit,
1806 certificates of guarantee and other instruments] Any accepted security
1807 may be released [upon request of] if the permittee and [approval of the]
1808 Director [of Permitting Services] agree. [Cash and corporate bonds,
1809 letters of credit, certificates of guarantee and other instruments]
1810 Accepted securities may be released on a prorated basis, depending on
1811 the amount of completed and approved work. The Director [of
1812 Permitting Services determines] must decide the amount to be retained
1813 by the County, but the amount retained must not be less than 15% of the
1814 total cost of the project until [final acceptance] the Director finally
1815 accepts the project.
- 1816 (d) (1) If the Director [of Permitting Services] finds a violation of an
1817 applicable law or regulation, or a default in the performance of
1818 any term or condition of the permit[, bond, letter of credit,
1819 certificate of guarantee] or [other instrument] accepted security,
1820 the Director [of Permitting Services] must give written notice of
1821 the violation or default to the principal and to the surety of the
1822 [bond, letter of credit, certificate of guarantee or other instrument]
1823 accepted security. The notice must [state] specify the work to be
1824 done, the estimated cost of the work, and the period of time the

- 1825 Director [of Permitting Services] finds reasonably necessary to
1826 complete the work.
- 1827 (2) If a cash bond has been posted, the Director [of Permitting
1828 Services] must give notice of default to the principal; and if
1829 compliance is not [had] achieved within the time specified, the
1830 Director may, [proceed] without delay and without further notice
1831 or proceedings, [to] use the cash deposited, or any portion of the
1832 deposit, to cause the required work to be performed by contract
1833 or otherwise in the Director's discretion [of the Director of
1834 Permitting Services]. After any default in the performance of any
1835 term or condition of the permit[, bond, letter of credit, certificate
1836 of guarantee] or [other instrument] accepted security, the County,
1837 the surety, and any person employed or engaged on their behalf
1838 may enter the site to complete the required work.
- 1839 (3) If the County undertakes the required work with funds from the
1840 forfeited [bond, letter of credit, certificate of guarantee or other
1841 instrument] security, the funds must be used to pay the cost of
1842 contracting, including engineering and administration, for
1843 necessary work within the requirements of the plan, permit,
1844 [bond, agreement] security, or this Chapter.
- 1845 (4) If the cost of the work exceeds the amount of the [bond, letter of
1846 credit, certificate of guarantee, or other instrument] security, the
1847 permittee [continues to be firmly bound under a continuing
1848 obligation] is liable to pay all excess costs and expenses incurred
1849 by the County. The costs and expenses must be a lien upon all
1850 property and all rights to property, real or personal, of any person
1851 liable to pay [the same] those costs after the costs become due

1852 and payable, including interest at the rate applicable for overdue
 1853 County taxes. The costs must be listed on the tax bill and must
 1854 be collected in the manner of ordinary taxes.

1855 ~~[(2)]~~ (5) If the Director [of Permitting Services] finds a violation of an
 1856 applicable law or regulation by an organization or entity issuing
 1857 certificates of guarantee, the Director [of Permitting Services]
 1858 may revoke all permits of members of that organization or entity
 1859 for which a certificate of guarantee has been posted. The
 1860 Director [of Permitting Services] may post stop-work orders
 1861 wherever applicable until an appropriate [bond, letter of credit or
 1862 other instrument] security acceptable to the County is substituted
 1863 for the certificates of guarantee.

1864 (e) The [County] Executive may adopt regulations under method ~~[(3)]~~ (2)
 1865 to implement this Section. The Director [of Permitting Services] must
 1866 recommend permit fees to include amounts that are necessary to cover
 1867 any increased costs of administration of any programs in this Section.

1868 ~~[49-41]~~ 49-38. **Acceptance of [streets,] roads[, etc.-Authority of county].**

1869 (a) The [county executive] County Executive may [prescribe] specify by
 1870 [written] Executive order, [adopted pursuant to the procedure prescribed
 1871 by law] published in the County Register, the terms and conditions
 1872 [upon] on which any [street, alley,] road [or thoroughfare which has
 1873 been] may be acquired by the [county] County or dedicated to public
 1874 use. [may be accepted, and he may authorize the acceptance of all
 1875 streets, alleys, roads or thoroughfares upon such terms and conditions;
 1876 provided, that such streets, alleys, roads or thoroughfares]

1877 (b) Any action by the County to accept a road must be in writing and fully
 1878 identify the portion accepted. Any accepted road must conform to the

1879 standards and specifications of [the county road construction code] this
 1880 Chapter and all other applicable laws in force at the time of acceptance.
 1881 [The county council may provide by law for the acceptance of streets,
 1882 alleys, roads or thoroughfares by the county executive which do not
 1883 conform to the standards and specifications of such county road
 1884 construction code; provided, that such law shall establish standards and
 1885 conditions for acceptance to protect the public interest.]

1886 (c) [Upon the acceptance of] When the County accepts any [street, alley,]
 1887 road [or thoroughfare], it [shall become] becomes a part of the [county]
 1888 County road system and [shall] thereafter must be maintained by the
 1889 [county] County at its expense.

1890 **[49-42] 49-39. [Same-Generally] Pre-acceptance review by County.**

1891 (a) All permittees under this [article] Article and their agents, [and servants
 1892 shall] contractors, and sub-contractors must comply with all applicable
 1893 provisions of this [article, and until] Article. Until the County accepts a
 1894 road constructed under [the provisions of] this [article] Article [is
 1895 accepted] for maintenance [by the county], the permittees, their agents,
 1896 [and servants] contractors, and sub-contractors and the bond given
 1897 under this [article shall] Article remain liable for the faithful
 1898 performance of [the provisions] all requirements.

1899 (b) After completion and final inspection of a road, the [county shall]
 1900 County must either accept [such] the road, [upon a finding] if the
 1901 Director of Permitting Services finds that [the] its construction [of
 1902 same] has [complied with] met all requirements of this [article] Article,
 1903 and release the bond, or [it shall] the Director must reject the road by
 1904 written [notification] notice to the permittee and [his] surety, where [a
 1905 corporate bond has been] an acceptable security was posted, specifying

1906 the reasons for [such] rejection by reference to the particular [provision
 1907 of this article] requirement which has been violated, and allow a
 1908 specified reasonable time[, to be specified therein,] for [such] the
 1909 permittee or [his] surety to comply with [the provisions of this article]
 1910 all applicable requirements.

1911 (c) If the permittee or [his] surety does not [thereafter], within the time
 1912 specified, complete the construction [according to the provisions of this
 1913 article] as required, [then] the [county shall] Director must [forthwith
 1914 proceed to do whatever is] take any necessary action to cause the
 1915 construction to comply with this [article, and the] Article. The
 1916 permittee and [his bond shall thereupon be] surety are jointly liable for
 1917 any expense incurred thereby.

1918 (d) [Any acceptance of a road by the county shall be in writing, fully
 1919 identifying the road. Thereafter, the road shall be maintained at county
 1920 expense.] [Where] If cash has been deposited [pursuant to] under
 1921 subsection [(c) of section 49-40] 49-37(c) and a road is not accepted, the
 1922 [county] County may withhold any funds remaining in the cash deposit
 1923 account until [compliance by] the permittee complies with [the
 1924 provisions of] this [article] Article. If the permittee does not comply,
 1925 the [county] County may declare a forfeit of [such] any amount [as is
 1926 required to effect] needed to bring the road into compliance.

1927 **[49-43] 49-40. Waivers of requirements of Article.**

1928 (a) The [requirements] Director of Permitting Services may waive any
 1929 requirement of this Article for sidewalks, rights-of-way widths, [curbs
 1930 and gutters, paving widths, street trees,] grade percentages, full-width
 1931 grading, [construction to intersection,] and the construction of both
 1932 roadways of a dual [lane] road, or any combination of them, [may be

1933 waived by the Director of Permitting Services] as allowed in this
 1934 Section, for any [roads to be] road constructed by the County or
 1935 [permittees] a permittee.

1936 (b) The Director must apply the following standards for granting or denying
 1937 waivers [are established]:

1938 (1) *Sidewalks.*

1939 (A) [[Terrain waiver]] Waiver authority. [Upon a finding that]
 1940 The Director may waive any requirement to install
 1941 sidewalks if:

1942 (i) the lots abutting the right-of-way are unimproved;
 1943 [or that]

1944 (ii) the street was lawfully graded [prior to] before
 1945 August 15, 1950, and the terrain is so steep and
 1946 uneven that [the] grading for sidewalks cannot be
 1947 done except at excessive cost, or [that]

1948 (iii) houses or buildings abutting the right-of-way which
 1949 were constructed [prior to] before August 15, 1950,
 1950 are so situated, and the property upon which [such]
 1951 those houses or buildings are located is so graded,
 1952 that the construction of sidewalks is undesirable[,
 1953 the waiver may be granted].

1954 (B) Waivers not allowed. Notwithstanding the [above]
 1955 preceding subparagraph, [upon a finding that] the Director
 1956 may deny a waiver if:

1957 (i) the street involved [in] is a [primary residential
 1958 road] Primary Residential Street, Industrial Street,
 1959 Business District Street, Minor Arterial or [an

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arterial road,] Arterial, Major Highway, or
Controlled Major Highway; or [that]

(ii) the required sidewalks [which are the subject of the
 application] are necessary or desirable to provide
 safe access for pedestrians[, the waiver may be
 denied].

(C) Waiver ~~[[for]]~~ and fee payment. As an alternative to
building a sidewalk on an existing or proposed street, the
Director may allow an applicant ~~[[may be allowed]]~~ to pay
a fee ~~[[under certain circumstances]]~~ if the applicant shows
that building a sidewalk as required would cause extreme
hardship. The ~~[[otherwise required]]~~ sidewalk that would
be waived must not connect to another existing or
proposed sidewalk, shared use path, bus stop, school, or
other public facility. The fee must equal the full cost to
build the sidewalk, including the design and supervision
costs. This fee must be paid, any necessary right-of-way
must be dedicated, and any necessary perpetual easement
must be recorded before the Director issues any road
construction permit for the proposed public street. The
revenue from these fees ~~[[will]]~~ must be assigned to a
capital account for sidewalk construction and may be
~~[[expended if]]~~ spent as appropriated by the County
Council.

(2) Right-of-way widths. [A waiver of] The Director may waive or
reduce any right-of-way width [may be granted whenever there is
 a finding that] if:

- 1987 (A) the proposed right-of-way connects with an existing right-
 1988 of-way of substandard width which was lawful when
 1989 established, but [a waiver] the Director must not [be
 1990 granted for] waive or reduce any part of [such] the
 1991 proposed right-of-way which is beyond a four-way
 1992 intersection or any other logical point of widening; [. A
 1993 waiver may be granted upon a finding that]
- 1994 (B) the proposed right-of-way is the connecting link of a street
 1995 and the right-of-way at each end is [of] a substandard
 1996 width which was lawful when established. [A waiver may
 1997 also be granted when there is clear and convincing
 1998 evidence that the applicant has made every reasonable
 1999 effort to acquire additional right-of-way and has been
 2000 unable to do so.]
- 2001 [(3) *Curbs and gutters.* A requirement to install curbs and gutters
 2002 may be waived only if:
- 2003 (A) all or substantially all of the houses and buildings
 2004 constructed or to be constructed on the lots abutting the
 2005 road are or will be set back from the right-of-way line a
 2006 distance which substantially exceeds the minimum setback
 2007 requirement;
- 2008 (B) engineering studies demonstrate that the stormwater which
 2009 will flow on or over the right-of-way or the neighboring
 2010 properties can be carried off by open, sodded, or paved
 2011 ditches, and the use of such ditches is feasible;
- 2012 (C) the applicant agrees to construct whatever safety devices,
 2013 including sidewalks, are necessary to eliminate any hazard

2014 to vehicular and pedestrian traffic resulting from such
 2015 ditches; and

2016 (D) the estimated cost of County maintenance of the road will
 2017 not be excessive.]

2018 [(4) *Paving widths.* Waivers of pavement widths may be granted on
 2019 the same grounds as set forth above the curbs and gutters or
 2020 whenever the right-of-way is inadequate and a waiver of right-of-
 2021 way width has been granted.]

2022 [(5)] (3) *Grade percentages.* [A waiver may be granted when] The
 2023 Director may waive or reduce any required grade percentage if
 2024 the [proposed] road connects with [an existing] another road or
 2025 private driveway in such manner that the grade percentage
 2026 required by this Article cannot be provided. [A waiver may also
 2027 be granted whenever it is found that adherence to the grade
 2028 percentage requirements of this Article would result in a
 2029 substantial depreciation in the value of the houses or buildings
 2030 previously constructed on the lots abutting the proposed street.]

2031 [(6)] (4) *Full-width grading.* The Director may waive or reduce any
 2032 requirement for full-width grading [may be waived] if:

2033 [a.] (A) a grading permit was issued before August 15, 1950, all
 2034 grading required by [such] that permit was done, sidewalks
 2035 are not required or are waived, [and] further grading is not
 2036 required to construct the pavement or curbs and gutters, [.]
 2037 However, a waiver must not be granted if] and a majority
 2038 of the lots abutting the proposed road [are undeveloped]
 2039 have been developed;

2040 [b.] (B) the [waiver will result in the protection of] reduced width
 2041 is needed to protect a specimen tree, significant [stands]
 2042 stand of mature trees, or certain trees or other sensitive
 2043 environmental features designated for preservation in an
 2044 approved forest conservation plan or other regulatory
 2045 approval; or

2046 [c.] (C) for [secondary residential roads only] a Secondary
 2047 Residential or Tertiary Residential Street, the applicant
 2048 proposes to [construct the extension of] extend an existing
 2049 paved road which ends short of an intersection, [and] the
 2050 right-of-way containing the existing paved road is not
 2051 graded to its full width, and the waiver does not apply
 2052 beyond the intersection.

2053 [(7) *Construction to intersection.* The requirement that no road shall
 2054 be constructed short of an intersection may be waived when there
 2055 are no houses or buildings on the property abutting that portion of
 2056 the right-of-way covered by the waiver request, and the cost of
 2057 constructing the intersection included in the waiver request does
 2058 not exceed normal street development cost.]

2059 [(8)] (5) Dual [lane] roads. [A waiver may be granted permitting] The
 2060 Director may allow the construction of only one [(1)] roadway of
 2061 a dual [lane] road [whenever] if:

2062 (A) the applicant for [such] a waiver does not own the property
 2063 abutting the roadway for which the waiver is requested; [,
 2064 and such]

2065 (B) the abutting property is undeveloped; [and]

2066 (C) the temporary use of two-way traffic [of] on the single
 2067 roadway to be constructed will not interfere with the flow
 2068 of traffic so as to cause congestion; [, and]

2069 (D) each intersection [is] will be constructed completely[.]; and

2070 (E) the main drainage system [is] will be constructed as a part
 2071 of the roadway first constructed.

2072 (c) In addition to the other provisions of this Section, any person may
 2073 propose temporary or interim improvements to an existing public road
 2074 by filing a written request for a waiver of any requirement of this [road
 2075 construction code] Article. The County Executive may grant the
 2076 [person's] request for a waiver in whole or in part when the Executive
 2077 finds, by notice published in the County Register, that the application
 2078 satisfies the following conditions:

2079 (1) The Director of Permitting Services, after reviewing detailed
 2080 plans and specifications of the proposed improvements, must
 2081 recommend in writing, using waiver criteria developed by the
 2082 Department of Public Works and Transportation, that the
 2083 Executive should approve or disapprove the improvements
 2084 proposed in the plans submitted by the applicant and state the
 2085 reasons for the recommendation. The failure of the Director to
 2086 act on the plans within 30 days after submission constitutes the
 2087 Director's support of the Executive granting the waiver[;].

2088 (2) [Where] If a road is proposed to be improved by the County, the
 2089 road [to be improved] is [included] listed for construction or
 2090 reconstruction in an approved six-year capital improvements
 2091 program[;].

- 2092 (3) [That an] An immediate, temporary improvement is necessary to
 2093 provide safe vehicular access to residents presently residing on or
 2094 near the road[;].
- 2095 (4) The road is a County public road, and all rights-of-way required
 2096 for the proposed improvements [has] have been acquired by or
 2097 dedicated to the County[;].
- 2098 (5) The applicant for such a waiver has agreed to make, or cause to
 2099 be made, all of the proposed improvements in the road at no cost
 2100 to the County. An applicant under this [Article shall] subsection,
 2101 [prior to] before beginning any grading or construction, must
 2102 deliver to the County a cash or corporate bond in [such] the
 2103 amount [as is] estimated to be the total cost of the project. [Such]
 2104 The cash or corporate bond [shall] must run to the County[,] and
 2105 [be conditioned as follows] require the applicant to:
- 2106 [a.] (A) [That the applicant will] comply with all [the] applicable
 2107 terms, conditions, [provisions,] requirements, standards,
 2108 and specifications of this Article[.];
- 2109 [b.] (B) [That the applicant will] faithfully complete the work for
 2110 which the permit is issued[.]; and
- 2111 [c.] (C) [That the applicant will save harmless] indemnify the
 2112 County from any expense incurred through failure of the
 2113 permittee[, his] or the permittee's agents and [servants]
 2114 employees, to complete the work as required by this
 2115 Article or from any damages [growing out of] that result
 2116 from the negligence of the [applicant or his agents or
 2117 servants] permittee or the permittee's agents or employees.

2118 (6) The applicant for [such] a waiver [shall] under this subsection
 2119 must submit for recording in the County land records [of the
 2120 County for himself and for all other petitioners for such waiver],
 2121 in a form approved by the County Attorney, covenants which
 2122 bind the applicant, [and] each petitioner, and [all of] their
 2123 successors in title to accept, as against each of their properties
 2124 which are adjacent to [such] the road, any future special
 2125 improvement assessments levied [for the construction of such] to
 2126 build the road, reserving [in such covenants] the right to
 2127 challenge any assessment [in excess of] which exceeds the
 2128 amount by which [such] the property is specially benefited [by
 2129 such construction].

2130 (d) The County may [provide] make temporary or interim improvements to
 2131 an existing public road without construction or reconstructing [the
 2132 same] it, and thereby waive any requirements of this [road construction
 2133 code upon a written finding by] Article, if the County Executive finds,
 2134 by notice published in the County Register, that [all of the following
 2135 conditions are satisfied]:

2136 (1) [The] the road to be improved is [included] listed for planning
 2137 and design or for construction or reconstruction in the most
 2138 recently approved six-year capital improvements program;

2139 (2) [That] an immediate, temporary improvement is necessary to
 2140 provide safe vehicular access to nearby residents [presently
 2141 residing on or near the road];

2142 (3) [The] the road is a County public road, and no additional right-of-
 2143 way [need be acquired] is needed for the proposed improvement;
 2144 and

2145 (4) [That the waiver of] waiving any [of the requirements]
 2146 requirement of [the road construction code] this Article will not
 2147 [be detrimental to the] impair public safety.

2148 [(e) Any provision of this road construction code may be waived for a
 2149 community development area project falling within the boundaries of,
 2150 or as part of, urban renewal projects, community development or
 2151 redevelopment projects, and neighborhood improvement projects
 2152 approved in the capital improvements program for the purpose of
 2153 eliminating blight and slums and preventing blight and deterioration of a
 2154 neighborhood or designated area; provided, that the County Executive
 2155 shall make a written finding that such project contributes to the
 2156 objectives and purposes of the approved program and will not
 2157 substantially impair the purposes of this Code.]

2158 [(f)] (e) The County may [provide] make temporary or interim improvements
 2159 to an existing public road without construction or reconstructing [the
 2160 same] it, and thereby waive any requirements of this [road construction
 2161 code upon a written finding by] Article, if the County Executive finds,
 2162 by notice published in the County Register, that [all of the following
 2163 conditions are satisfied]:

2164 (1) [The] the road improvements are needed to relieve hazardous
 2165 [and] or emergency conditions, or to protect the health and well-
 2166 being of the community;

2167 (2) [The] the road to be improved is less than [one and one-fourth (1
 2168 1/4) mile in length] 1¼ miles long, not located in a new
 2169 subdivision, and no additional right-of-way [need be acquired] is
 2170 needed for the proposed improvement;

- 2171 (3) ~~[[Existing]]~~ existing and projected traffic levels are appropriate to
 2172 the construction standards proposed;
- 2173 (4) ~~[The]~~ the road improvements are limited to surface treatments
 2174 and~~[/or]~~ minor drainage improvements;
- 2175 (5) ~~[The]~~ the road improvements will reduce road maintenance
 2176 expenses;
- 2177 (6) ~~[The]~~ the County Executive has received a petition endorsing the
 2178 proposed improvements signed by a substantial majority of the
 2179 property owners adjacent to the road; and
- 2180 (7) ~~[The road]~~ the proposed improvements and their estimated costs
 2181 ~~[thereof]~~ were ~~[specifically]~~ expressly included in the County
 2182 Executive's annual budget, ~~[submission]~~ and ~~[have been~~
 2183 approved by] the Council appropriated all necessary funds.

2184 ~~[(g)]~~ ~~(f)~~ ~~[Any]~~ The County Executive may waive any provision of ~~[the road~~
 2185 construction code may be waived by the County Executive in event of]
 2186 this Article to respond to an unforeseen emergency or disaster, such as a
 2187 flood, hurricane, or public health crisis, or ~~[compliance]~~ to comply with
 2188 ~~[implementing federal]~~ Federal or ~~[state]~~ State rules, regulations or
 2189 recommendations issued to deal with any ~~[[such]]~~ emergency or
 2190 disaster; ~~[provided, that a written finding and determination shall be~~
 2191 made] if the Executive:

- 2192 (1) issues an Executive order which states the nature of the
 2193 unforeseen emergency or disaster, the scope and duration ~~[of the~~
 2194 waiver] and any other conditions of ~~[such]~~ the waiver, and ~~[such~~
 2195 findings and determinations shall be]
- 2196 (2) promptly ~~[communicated]~~ submits a copy of the order to the
 2197 County Council.

2198 [(h) Before any requirement to construct a sidewalk, curb, or gutter is
 2199 waived under this Section, or the Director sends a waiver of such a
 2200 requirement to the County Executive for approval, the Director must
 2201 give the Planning Board and the Department of Environmental
 2202 Protection a reasonable opportunity to comment on the environmental
 2203 and land-use effects of waiving the requirement.]

2204 [[(g) The Planning Board may waive any requirement, as allowed in this
 2205 Section, for any private road to be constructed under an approved
 2206 preliminary subdivision plan or site plan.]]

2207 **[49-44] 49-41. Penalty for violations of [article] Article.**

2208 Any [person violating any provision] violation of this [article shall be subject
 2209 to punishment for] Article is a [[class]] Class A violation, except as expressly
 2210 provided otherwise [as set forth in section 1-19 of chapter 1 of the County Code].
 2211 [Each day a violation continues to exist shall constitute a separate offense.] [This
 2212 section shall not apply to subsections (b) and (c) of section 49-38.]

2213 **49-42, 49-43, 49-44. Reserved.**

2214 **Article [III] 4. Acquisition of Land [for Streets and Sidewalks].**

2215 **49-45. [Acquisition of] Authority to acquire land for [use in opening new
 2216 roads, sidewalks, etc., by purchase] transportation purposes.**

2217 The [county shall have full power to agree and contract with owners for the
 2218 purchase of] County may buy land[, the use of] which [may be required] is needed in
 2219 connection with:

- 2220 (a) the opening of any new road, [street, alley,] shared use path, or
 2221 sidewalk, [for]
- 2222 (b) the construction or repair of any bridge,
- 2223 (c) the relocation, straightening or widening of any road, street, alley,
 2224 bikeway, or sidewalk,

- 2225 (d) the proper drainage of any ~~[[such]]~~ road, street, alley, bikeway or
 2226 sidewalk, [for]
 2227 (e) the building of any public building or structure, or [for]
 2228 (f) any other [necessary] public transportation purpose.

2229 **49-46. Condemnation [upon failure of owner to agree to purchase-**
 2230 **Authority of city; condemnation under general law].**

2231 If the [county shall be unable for any reason to] County cannot agree with the
 2232 owner of any land, [the buildings or improvements thereon, or any interest therein,
 2233 the use of which is] building, or improvement required for any [necessary] public
 2234 purpose [or for the opening of any new road, street, alley or sidewalk, for
 2235 construction or repair of any bridge, for the relocating, straightening or widening of
 2236 any road, street, alley or sidewalk, the proper drainage thereof, for the building of any
 2237 public building or structure, or for any other necessary public purpose,] listed in
 2238 Section 49-45, [then] the [county] County may [proceed to] condemn the [same]
 2239 land, building, or improvement, or any interest in them, for the use of the [county]
 2240 County under [the provisions of the public general] any applicable State law [relative
 2241 to] that authorizes condemnation by [corporations, municipal or otherwise] local
 2242 governments.

2243 **[49-47. Same-County not required to accept award or judgment rendered.]**

2244 The [county shall] County need not [be required to] accept the award or
 2245 judgment rendered in any proceeding under [the statute, referred to in the preceding
 2246 section] this Section, but instead may abandon the project [upon payment of the] after
 2247 paying any costs [thereof] required by law.

2248 **49-47, 49-48. Reserved.**

2249 **49-49. Procedure after construction work has been done [or completed].**

2250 [Whenever] If the County has built any road, highway, street, bridge, bikeway,
 2251 sidewalk, curb, gutter or drainage ditch [shall be constructed in the county] on[,

2252 through or upon] any land [in the county the title to which or the right-of-way over
 2253 which shall not have been first secured by the county prior to the construction of any
 2254 such improvement] which the County did not own or have authority to use, [then] the
 2255 [county is hereby authorized and empowered to proceed to] County may condemn
 2256 [such] the land and any [and all] improvements [thereon] on it under [the provisions
 2257 of] any applicable State law [relating to] which authorizes the condemnation of land
 2258 for public purposes [as fully] as though the improvement [thereon] had not been
 2259 [constructed prior to the institution of] built before condemnation proceedings began.

2260 **49-50. Optional method of condemnation of land for streets or roads.**

2261 As authorized by Section 40A of Article III of the Maryland Constitution [of
 2262 Maryland], the County may acquire any land or interest in land required for a right-
 2263 of-way for a County [roads or streets] road or street by using the following
 2264 procedure:

- 2265 (a) When the County Council finds an immediate need to acquire [private
 2266 property for right-of-way for County roads or streets] land or an interest
 2267 in land, the Council by resolution must:
- 2268 (1) describe the property,
 - 2269 (2) list the owner [[or owners]] as [[they appear]] the owner appears
 2270 on the County assessment records [of the County],
 - 2271 (3) appoint a licensed real estate broker or a licensed real estate
 2272 appraiser to estimate the property's fair market value,
 - 2273 (4) direct the County Attorney to acquire the property or interest
 2274 under this procedure, and
 - 2275 (5) guarantee the payment of any amount above the estimated fair
 2276 market value, later awarded by a jury.

- 2277 (b) (1) Promptly after being appointed, the broker or appraiser must
2278 estimate the fair market value of the property or interest and
2279 submit a written report to the County.
- 2280 (2) The County then may by petition, naming the owner [[or
2281 owners]] and all persons of record whose interest in the property
2282 would be taken, pay to the Circuit Court the amount estimated by
2283 the broker or appraiser to be the fair market value of the property,
2284 and record a copy of the resolution of taking [among] in the
2285 County land records [of the County]. A copy of the resolution
2286 must be attached to the petition. A copy of the petition and
2287 resolution must be served [upon] on each person named in the
2288 petition.
- 2289 (3) A copy of the petition and resolution must be filed with the
2290 Supervisor of Assessments, who must promptly adjust the tax
2291 assessment records.
- 2292 (4) The County may then immediately take possession of the
2293 property or interest described in the resolution without further
2294 notice to the property owner or other [persons] person of interest,
2295 and may proceed with the road or street project.
- 2296 (5) Payment into court of the amount estimated by the County's
2297 broker or appraiser to be the fair market value of the property or
2298 interest does not limit the amount that may be later awarded by a
2299 jury. The guarantee of the County to pay any further sum later
2300 awarded by a jury remains in effect until the final disposition of
2301 the proceeding.
- 2302 (c) The owner of [such] any property or interest taken [shall be entitled],
2303 upon written request to the Clerk of the Court, [to] must receive [such]

2304 the amount [as was] paid [[into]] to the court[, provided such] if the
 2305 owner agrees in writing filed with the Clerk to pay back to the County
 2306 the difference between [such] the amount received and a final award
 2307 made by a jury, if [such] the final award is less than the amount paid
 2308 [[into]] to the court.

2309 (d) Upon payment of the required money [[into]] to the court [as aforesaid]
 2310 under subsection (b)(2), the County [shall proceed to] must negotiate
 2311 with [the owner of] the property [affected in an effort] owner to attempt
 2312 to obtain by amicable negotiation [such] any right, title [and] or interest
 2313 [of the owner's property as is] necessary for the road or street project
 2314 [upon which is based the need to acquire such property]. If the County
 2315 and the owner [of such property are unable to] cannot agree [upon] on a
 2316 sum to be paid [for the property] after payment [of the money] [[into]]
 2317 to the court [as aforesaid], [such] the owner may request the County to
 2318 institute condemnation proceedings[, and upon such request the]. The
 2319 County [shall] must, within [ninety (90)] 90 days [of such] after
 2320 receiving a request, [institute such] begin condemnation proceedings [in
 2321 accordance with the procedure established in] under [Article Real
 2322 Property,] [[Section 12-101]] Title 12 of the [Annotated Code] Real
 2323 Property Article of the Maryland Code, [as amended; provided, that the]
 2324 or any successor provision. The County on its own may [institute such]
 2325 also begin condemnation proceedings at any time.

2326 (e) The jury award [upon] on any property or interest taken under this
 2327 [procedure shall] Section must be based [upon] on the value of the
 2328 property [at the time of payment by] or interest when the County paid
 2329 [[into]] to the court.

2330 (f) The County ~~[[need]]~~ is not required to accept the estimate of its broker
 2331 or appraiser, ~~[[and, before]]~~ Before paying any funds ~~[[into]]~~ to the
 2332 court, the County may withdraw its petition by paying [the] any costs
 2333 [thereof] required by law. In that case, the County is not entitled to take
 2334 possession of the property or interest. In withdrawing its petition, the
 2335 County [has] does not [waived the] waive its right to [institute] begin a
 2336 condemnation action or a new proceeding under this Section against the
 2337 same property, or to buy the same property or interest by negotiation
 2338 with the owner.

2339 (g) The procedure [established] in this Section [shall] does not apply if the
 2340 property [actually] to be taken includes a building [or buildings].

2341 **Article [IV] 5.**

2342 **[Construction of] County Roads [by County] – Authority and Funding.**

2343 **49-51. Definitions.**

2344 As used in this Article:

2345 *Construction*]; The term "construction" means construction [and] or
 2346 reconstruction (but not maintenance), and includes grading, installation of drainage
 2347 structures, and paving[[, curbs and gutters, sidewalks, returns of curbs, sidewalk and
 2348 driveway entrances, guard rails, retaining walls, sodding, and planting]].

2349 *Road*]: The term "road" includes any road, street, highway, avenue, lane,
 2350 alley, bridge, shared use path, sidewalk, [and] viaduct, and any related storm drain
 2351 and stormwater management facility.

2352 **49-52. Road construction to be authorized by [county executive] County**
 2353 **Executive; [council] Council to assess benefits.**

2354 (a) [No road shall be constructed by the county except pursuant to a written
 2355 order of the county executive] The County must not build any road
 2356 unless the County Executive has issued an order authorizing the

2357 construction [of such road]. [Whenever any such road construction in
 2358 the county] After the Executive has [been so] authorized the road, the
 2359 County Council may assess the cost of construction [shall be assessed
 2360 by the county council] by resolution as a benefit to all property adjacent
 2361 to the road's right-of-way [of such road] and specially benefited by [the]
 2362 its construction [thereof; provided, that:] as provided in this Section.

2363 [(a)] (b) [Such cost of construction shall be assessed only to the extent that any
 2364 road construction code of the county in force at the time] The law in
 2365 effect when construction is authorized [provides for] must allow the
 2366 assessment of [such] all or part of its cost [or any portion thereof;].

2367 [(b)] (c) [No such] A property [shall] must not be assessed [in excess of] more
 2368 than the amount by which [such] the property is specially benefited by
 2369 [such] the construction[;].

2370 [(c)] (d) Property owned by the United States, the [state] State, or any
 2371 [government] agency [thereof shall] of either must not be assessed. [for
 2372 any portion of such cost or construction;]

2373 [(d)] For a service drive, primary residential road, arterial road, business
 2374 district road or other road designation of higher traffic capacity, all costs
 2375 of construction shall be assessed to adjoining properties; provided, that
 2376 there is a rebuttable presumption of no benefit to any property which
 2377 meets all of the following conditions:

2378 (1) The property is (i) zoned residential and is not developed or
 2379 master planned for institutional, industrial or commercial use; or
 2380 (ii) a residential condominium or cooperative unit;

2381 (2) The property abuts a county-maintained, paved roadway of two
 2382 (2) lanes or greater capacity; and

2383 (3) The property is not zoned or master planned for zoning which
 2384 would permit subdivision into two (2) or more residential lots or
 2385 development for multiple-family use;]

2386 (e) [Assessments against properties for costs of construction or
 2387 reconstruction of roads undertaken by the county may be waived within
 2388 the boundaries of or as a part of] The Council may waive any
 2389 assessment in an urban renewal [projects] project, community
 2390 redevelopment [projects] project, [and] or neighborhood improvement
 2391 [projects] project [approved in the capital improvements program for
 2392 the purpose of eliminating blight and slums and preventing blight or
 2393 deterioration of a neighborhood or designated area].

2394 **49-53. Public hearing [required prior to authorization of construction and**
 2395 **assessment of benefits]; notice[; publication].**

2396 (a) Before any road construction [shall be] or assessment is authorized, the
 2397 County Executive or a designee must hold a public hearing [thereon
 2398 shall be held by the county executive or his designee]. Any [interested]
 2399 person who would be subject to an assessment or otherwise affected by
 2400 the location or construction of the road [shall be] is entitled to [appear
 2401 and] be heard at [such] the hearing. Notice of [such] the hearing [shall]
 2402 must be sent by certified or registered mail, at least [two (2)] 2 weeks
 2403 before the scheduled date of the hearing, to the owners of [the] each
 2404 property that would be subject to an assessment, [for the proposed
 2405 construction] as listed in the records of the [department of finance]
 2406 Department of Finance.

2407 (b) [All notices] Each notice issued [pursuant to] under this [section shall]
 2408 Section must contain [the following]:

2409 (1) The time and place of the hearing;

- 2410 (2) The location of the construction which is the subject of the
 2411 hearing;
- 2412 (3) The extent and kind of construction intended;
- 2413 (4) The type of materials to be used;
- 2414 (5) The estimated cost of construction; and
- 2415 (6) [Identification] The location of the real property that [there is
 2416 reason to believe] will be benefited by the construction.

2417 (c) A summary of the notice provided for in this [section shall] Section
 2418 must be published twice in a newspaper of general circulation in the
 2419 County before the scheduled date of the hearing. [Such] The summary
 2420 [shall include a statement indicating] must tell where a full copy of the
 2421 [text] notice may be obtained.

2422 **49-54. Authorization of construction; recommendation of assessments to**
 2423 **[council; contents] Council.**

2424 (a) If, after the hearing provided for in section 49-53, the [county executive
 2425 shall find] County Executive finds that the public interest requires [that]
 2426 all or part of any road construction project under consideration[, or any
 2427 portion thereof,] to be carried out, [he shall] the Executive must [, by
 2428 written order] authorize [such construction or portion thereof in
 2429 conformity with the county road construction code in force at the time]
 2430 the road to be built as required in this Chapter.

2431 (b) As soon as practicable after the [authorization of any] Executive
 2432 authorizes the road [construction pursuant to] under this Section, and
 2433 after the hearing held under Section 49-53, the [county executive shall]
 2434 County Executive must forward to the [county council] County Council
 2435 a written report recommending any proposed assessments based on the
 2436 estimated cost of [such construction] building the road. [Such] The

2437 report [shall] must describe the work to be done and [shall] state, with
 2438 particularity, what portion of the cost of [such] the construction, if any,
 2439 [is recommended to] should be [borne] paid by the adjacent properties
 2440 and what portion, if any, of [such] the cost [is recommended to] should
 2441 be [borne] paid by the [county in accordance with the provisions of the
 2442 road construction code in force at the time] County under this Chapter.

2443 (c) [Such] The recommendations [shall] must be based [upon] on the actual
 2444 costs of [publication of] publishing notices, [the conduct of] conducting
 2445 hearings, advertising for bids, and engineering, and the anticipated costs
 2446 of financing to be incurred [prior to the passage of] before the Council
 2447 adopts the assessment resolution [by the council]. [Such
 2448 recommendations for the assessment of costs shall] Each cost
 2449 assessment must be computed on the basis of linear frontage of [such]
 2450 adjacent properties, except as otherwise provided in this [article and in
 2451 the county road construction code in effect at the time] Chapter. The
 2452 report [shall] must also [contain an] estimate [of] the dollar amount [in
 2453 dollars] of the [portion of] cost share to be [borne] paid by [such]
 2454 adjacent properties.

2455 **49-55. Assessment of costs by [county council] County Council; appeals.**

2456 (a) Within [two hundred seventy (270)] 270 days [of acceptance of
 2457 completion of] after the County accepts any road [construction]
 2458 authorized and subject to assessments [pursuant to section] under
 2459 Section 49-54, the [county executive shall] County Executive must
 2460 forward [his] final recommendations for assessments to the [council]
 2461 Council. [Any] The Executive must include any adjustment to [prior]
 2462 previous estimates [of assessments necessitated by] resulting from the

2463 actual costs of the project, including financing[, shall be included in the
2464 executive's final recommendations].

2465 (b) Within [ninety (90)] 90 days after [receipt of] receiving these
2466 recommendations, the [council shall] Council must approve or modify
2467 the recommended assessments and [shall], by resolution, assess the
2468 costs of the road project against the adjacent properties, [pursuant to the
2469 county road construction code in force at the time and] subject to the
2470 [limitations] limits of [section] Section 49-52. [Such assessments shall]
2471 Each assessment must be computed on the basis of the linear frontage of
2472 [such properties] each property, except as otherwise provided in
2473 [section] Section 49-56 [and in the road construction code]. [Such]
2474 Each assessment [shall be] becomes final [upon adoption of] when the
2475 Council adopts the resolution. [; provided, that any]

2476 (c) Any person aggrieved by [such] an assessment may appeal, within
2477 [thirty (30)] 30 days after [the date of mailing of] the notice [thereof] is
2478 mailed, to the [circuit court] Circuit Court for the [county] County. Any
2479 party [to the proceedings] may appeal [from the] a decision of the
2480 [circuit court] Circuit Court to the [court of special appeals] Court of
2481 Special Appeals.

2482 **49-56. Assessment of corner lots.**

2483 [In all cases where] If the property to be assessed [for construction] is located
2484 at the intersection of [two (2)] 2 or more streets [and is what is known as]
2485 (hereinafter, a corner lot), the linear frontage of [such] each corner lot [to be]
2486 assessed in connection with the construction of each adjacent street [adjacent thereto
2487 shall] must be reduced to one-half of the total frontage of [such] that lot [upon] on the
2488 street [which it is proposed to construct] to be built, but any [[such]] reduction [shall]
2489 must not exceed [fifty (50)] 50 feet on any one [(1)] street. The portion of the cost of

2490 the construction which would otherwise have been assessed to [such] a corner lot
 2491 [shall] must be added to the overall cost assessed to the remaining assessable frontage
 2492 of the whole project, [or may be paid for in whole or in] unless the Executive
 2493 authorizes the County to pay all or part [by the county].

2494 **49-57. Roads partly in unincorporated area and partly in city[,] or town[,
 2495 etc].**

2496 (a) *Building roads.*

2497 (1) [Whenever] If a road, bridge, storm drain, sidewalk, shared use
 2498 path, transitway, or other transportation facility [lies] is located
 2499 partly [within] in the unincorporated area of the county and partly
 2500 [within a city, town, village,] in a municipality or special taxing
 2501 [[area]] district [of the county] that [has jurisdiction over the
 2502 construction or maintenance of] is authorized by law to build or
 2503 maintain that part of the [road] facility that is located in the
 2504 [incorporated area] municipality, either the County or the
 2505 municipality or special taxing district may improve the entire
 2506 [road may be constructed by the county or by the city, town,
 2507 village, or special taxing area] facility according to [the]
 2508 applicable County laws[, ordinances, rules, and regulations for
 2509 construction of county roads] or [of “public ways”] any law or
 2510 regulation that applies in the [city, town, village,] municipality or
 2511 special taxing [[area]] district, respectively, as if the [road]
 2512 facility were [wholly within] completely located in the
 2513 unincorporated area of the county or [wholly within] in the [city,
 2514 town, village,] municipality or special taxing [[area]] district.

2515 (2) The [county executive] County Executive and the governing
 2516 body of the [city, town, village,] municipality or special taxing

2517 [[area]] district must mutually consent to construct or improve
 2518 [such] the [road] facility [or public way], which consent may be
 2519 granted without regard to the laws [and ordinances] of the
 2520 [county] County or of the [city, town, village,] municipality or
 2521 special taxing [[area]] district regarding construction of roads [or
 2522 public ways] and assessment for the construction.

2523 (3) The County may build or improve a road, bridge, storm drain,
 2524 sidewalk, shared use path, transitway, or other transportation
 2525 facility which it is authorized by law to construct and maintain,
 2526 [[even if]] including when the facility is located partly or entirely
 2527 in a municipality or special taxing [[area]] district. Before taking
 2528 any action under this paragraph, the Executive must consult each
 2529 affected municipality.

2530 (b) Assessing costs.

2531 (1) [Whenever] If the [county] County or any [city, town, village]
 2532 municipality or special taxing [[area]] district [in the county shall
 2533 authorize] authorized the construction of a road [or public way],
 2534 [and shall obtain] obtains the consent of the other [as provided in]
 2535 under subsection (a) [of this section], [and] assesses [the] its cost
 2536 [thereof] against abutting property on the basis of benefit to
 2537 [such] the abutting property, and [such] the assessment is made in
 2538 accordance with the laws[, ordinances, rules] and regulations of
 2539 the [county] County or [city, town, village] municipality or
 2540 special taxing [[area]] district levying [such] the assessment, any
 2541 property which abuts [such] the road or public way but which
 2542 [lies] is located in whole or in part in [such] the other[, whether
 2543 county or city, town, village or special taxing area] jurisdiction,

2544 may be assessed for its proportionate share of the cost of
 2545 construction in the same manner as if the property [lay wholly
 2546 within] were located only in the [[county]] County or [city, town,
 2547 village] municipality or special taxing [[area]] district levying
 2548 [such] the assessment, as the case may be. [; provided however,
 2549 that upon any]

2550 (2) Any party [[upon]] on whom [such] an assessment may be levied
 2551 under this subsection may [protest or] appeal [such] the
 2552 assessment, in the same manner under the law of the [county, or
 2553 city, town, village or special taxing area] jurisdiction levying
 2554 [such] the assessment, as [may be] any other party [otherwise]
 2555 entitled to [protest or] appeal under [such] its law. [; provided;
 2556 however, that the city, town, village]

2557 (3) A municipality or special taxing [[area]] district may, in its
 2558 discretion, pay all or part of the costs [so] assessed by the County
 2559 against [the properties within its jurisdiction] any property
 2560 located in it.

2561 (c) State roads. Nothing in this [[section]] Section [shall be construed to
 2562 affect state roads] affects any State road, except to the extent that the
 2563 [county] County participates in [payment of the cost of] paying any
 2564 construction [pursuant to] cost under an agreement with the [state roads
 2565 commission] State Highway Administration or any successor agency.

2566 **49-58. Payment of assessments; due date; interest and/or penalties;**
 2567 **[deferral of] deferring payments.**

2568 (a) (1) [Assessments shall be] Any assessment under this Article is due
 2569 and payable [upon adoption of] 30 days after the Council adopts
 2570 the resolution levying the assessment. [and until] Until the

2571 assessment is paid, [shall be] the Director of Finance may attach
 2572 a lien on the [real] property [upon] on which the assessment was
 2573 levied.

2574 (2) The [county council] Council may provide in the resolution that
 2575 [such] assessments may be paid in full at any time or in up to 20
 2576 equal annual installments [not to exceed twenty (20)]. [All
 2577 assessments shall] Each assessment must bear interest on the
 2578 unpaid balance from the date [of such levy] the Council adopts
 2579 the resolution at [a rate of interest per annum, which shall be] the
 2580 interest rate paid by the [county] County on its bonds used [for
 2581 the purpose of capital] to finance construction of the road, plus
 2582 one [(1)] percent.

2583 (3) The resolution [shall] must provide that all or any portion of the
 2584 assessment may be paid without interest within [ninety (90)] 90
 2585 days [from the date of] after the resolution levying the assessment
 2586 is adopted, or in equal annual installments [commencing] starting
 2587 on the July 1 [next following thirty (30)] at least 30 days after the
 2588 levy of the assessment, [, and such payments shall] Each payment
 2589 must include interest on the unpaid balance. Any annual
 2590 installment, together with the interest [thereon] on it, not paid on
 2591 or before the September 30 [following] after its due date, [shall
 2592 be] is overdue and [in arrears and shall] must be charged
 2593 additional interest and[or] penalty at the [rate(s)] rate prescribed
 2594 by law for overdue [and in arrears ordinary] taxes on real
 2595 property for the full taxable year.

2596 (b) Notwithstanding the provisions of this [section] Section, the [county
 2597 council] Council may by resolution permit a taxpayer to defer the

2598 payment of assessments for a period not to exceed [five (5)] 5 years,
2599 subject to the following conditions:

2600 (1) The payment deferral [shall] must be provided only on
2601 assessments connected with property which has been subject to
2602 an increased [county] County property tax assessment resulting
2603 directly from a government-initiated change in the zoning
2604 classification of the property to a higher intensity use. A
2605 government-initiated change in the zoning classification of
2606 property is a change [[approved by the District Council or]]
2607 proposed by the Planning Board.

2608 (2) The property connected with the assessment has been and [shall]
2609 must be actually occupied by the taxpayer for residential
2610 purposes. [and any] Any change in [such] use during the period
2611 of payment deferral [shall operate to terminate] automatically
2612 ends the deferral. [, the] Any deferred assessment and
2613 accumulated interest [thereon] on it [shall] is then [become]
2614 immediately due and payable.

2615 (3) The payment deferral [shall terminate] ends immediately [upon
2616 transfer of the property by] when the owner of record listed on
2617 the [assessment and] tax records [at the time] when the property
2618 was rezoned [under circumstances described above, the] transfers
2619 the property. Any deferred assessment and accumulated interest
2620 [thereon] on it [shall] is then [become] immediately due and
2621 payable.

2622 (4) The owner [has executed] must execute an agreement with the
2623 [county agreeing] County to pay the balance of unpaid deferred
2624 assessments and accumulated interest [thereon] on them

2625 immediately [upon the transfer of ownership by said] if the
 2626 owner[, or upon the failure of] transfers ownership or does not
 2627 comply with any other condition [specified herein], or [upon the
 2628 expiration of] when the specified deferral period expires[,
 2629 whichever occurs first].

2630 (5) Interest on the unpaid balance of any deferred assessments [shall]
 2631 must accrue from the date of the deferral resolution at the rate
 2632 specified in [section] this Section [[49-58]].

2633 (6) A first lien [shall] must attach to the property for all deferred
 2634 assessments and accumulated interest [thereon] on them.

2635 [(7) The deferred payments of assessments authorized hereunder may
 2636 apply to any assessments levied after July 1, 1975, where the
 2637 property owner became eligible for the deferral of payments
 2638 under the conditions specified herein.]

2639 [(c) For purposes of this section, a government-initiated change in the
 2640 zoning classification of property shall be a change accomplished
 2641 through a filing and approval by the district council or the Maryland-
 2642 National Capital Park and Planning Commission.]

2643 **49-59. [Collection of] Collecting assessments; default in [payment of]**
 2644 **paying installments.**

2645 (a) [Assessments made hereunder shall] Any assessment under this Article
 2646 must be collected in the [manner in which ordinary taxes on] same way
 2647 as real property taxes are [now or hereafter may be] collected under [the
 2648 provision of the general and local laws of the state and the county] State
 2649 and County laws. Each annual installment due may be included on the
 2650 County tax bill, [issued by the county] or [it may be] billed separately,
 2651 as [determined by] the [director of finance] Director of Finance orders.

2652. (b) [Upon default in the payment of] If any person does not pay any annual
 2653 installment, including any interest and penalty due, the Director of
 2654 Finance may sell the property against which [any such] the assessment
 2655 has been made [shall be sold] at tax sale for the unpaid balance due on
 2656 the assessment, including [the] any interest [and/]or penalty due,
 2657 [thereon] in the same manner as real property is sold for nonpayment of
 2658 [ordinary] taxes, together with all other charges due [thereon], if any.

2659 **49-60. [Correction of] Correcting errors in assessments.**

2660 (a) [Whenever through error, inadvertence or oversight,] If any property
 2661 subject to assessment [has] was not [been] properly assessed, or [such]
 2662 the assessment erroneously describes the property or is made in a wrong
 2663 name or in an erroneous amount, or [where service upon] if the property
 2664 owner [has] was not [been made] properly notified, the [council]
 2665 Council may, [upon the recommendation of the county executive] if the
 2666 County Executive so recommends or [upon its own discovery of such
 2667 error, inadvertence or oversight] on its own, correct the assessment by
 2668 [amendment of] amending the resolution.

2669 (b) [making the same] The Council may correct an error without further
 2670 notice to the affected property owner [affected thereby; provided, that
 2671 such property] if the owner had notice of the hearing conducted
 2672 [pursuant to section] under Section 49-53 and the error[, inadvertence or
 2673 oversight] did not occur [prior to] before the [date of such] hearing was
 2674 held and was not contained in any notice of the hearing.

2675 (c) [thereof, but if such] If the error[, inadvertence or oversight] occurred
 2676 [prior to such] before the hearing or was contained in any notice
 2677 [[thereof]] of the hearing, [it shall] the error must not be corrected
 2678 [unless] until [the] any affected property [owners affected by such

2679 correction are] owner is given adequate notice and an opportunity to be
 2680 heard.

2681 **49-61. Borrowing and certificates of indebtedness.**

2682 The [county is hereby authorized] County may, by Council resolution [[of the
 2683 [council] Council]], [to] borrow [such sums] from time to time [upon] on its faith and
 2684 credit [as may be] any funds needed [for financing] to finance construction
 2685 authorized by this [article] Article, and [to] may issue its negotiable certificates of
 2686 indebtedness [therefore]. [Nothing in this article contained shall prevent or limit the
 2687 issuance by the county of bonds or other evidences of indebtedness for road or any
 2688 other purposes pursuant to authority of any other laws heretofore or hereafter
 2689 enacted.]

2690 **Article [V] 6.**

2691 **Abandonment and Closing of [Roads and Drainage] Rights-of-Way.**

2692 **49-62. Abandonment authority; scope of [article] Article; procedures.**

2693 (a) *Authority.* The County Council [may], by adopting a resolution, may
 2694 close to public use or abandon the County's right to use any right-of-
 2695 way. As used in this Article, *right-of-way* means any road, street, alley,
 2696 crosswalk, pedestrian walkway, shared use path, water main, sanitary
 2697 sewer, storm sewer, or storm drainage right-of-way used at any time by
 2698 the public, including use by pedestrians and bicyclists. This Article
 2699 applies to all rights-of-way except State road rights-of-way, and may
 2700 apply to a State road right-of-way if the appropriate State agency
 2701 expressly consents. [[This Article does not apply to any temporary
 2702 closure required by a construction traffic control plan if the closure does
 2703 not last longer than 6 months.]] Before the Council adopts a resolution
 2704 under this Article, the procedures in this Article must be followed.

- 2705 (b) *Application.* Any person or government agency may file an application
2706 with the Department of Public Works and Transportation to close or
2707 abandon any right-of-way. In this Article, unless the context clearly
2708 indicates otherwise, ["Department"] refers to the Department of Public
2709 Works and Transportation.
- 2710 (c) *Fee.* Each applicant, except a County government agency, must pay
2711 with the application a filing fee set by regulation under method (3) to
2712 defray the cost of processing the application and holding a hearing.
- 2713 (d) *Notice to property owners.* After receiving an application under this
2714 Article, the Department must promptly notify by certified mail each
2715 property owner listed in the County assessment records whose property
2716 abuts the right-of-way proposed to be closed or abandoned. However,
2717 the [failure of] fact that any property owner [to] did not receive a notice
2718 under this Section does not invalidate an otherwise valid closing or
2719 abandonment.
- 2720 (e) *Notice to public.* The Department must prominently post a notice of the
2721 application in or adjacent to the right-of-way to be closed or abandoned.
2722 The Department also must publish notice of the application once each
2723 week for 2 successive weeks in a newspaper of general circulation in the
2724 County. This notice, and those sent under subsection (d), must inform
2725 recipients of the opportunity for a hearing and the date a hearing will be
2726 held.
- 2727 (f) *Hearing.* The Executive or the Executive's designee must hold a
2728 hearing on the application not earlier than 30 days after notice is mailed
2729 under subsection (d).
- 2730 (g) *Executive's report; comments of government agencies and utilities.*
2731 After the hearing held under this Section, the County Executive must

2732 forward to the County Council the application, [and] a report based
 2733 [upon] on the record of the proceedings, and the Executive's
 2734 recommendation on the proposed abandonment or closing. The report
 2735 must state whether the government agencies [or governmental bodies]
 2736 and utilities listed in [this] subsection (h) have [consented to] endorsed
 2737 the proposal and the conditions, if any, of each agency's or
 2738 [governmental body's consent, if any] utility's endorsement. The
 2739 [County] Executive must not forward the report or recommendation
 2740 until the [County] Executive receives [recommendations] a response
 2741 from [the agencies] each agency or [governmental bodies] other party.
 2742 If [the] an agency or [governmental body] other party does not [file its
 2743 recommendation] respond within 60 days [from the date of the
 2744 application] after notice is first published under subsection (e), the
 2745 County Executive must presume that the agency or [governmental body
 2746 consents to] other party does not oppose the proposal.

2747 (h) Agencies. The government agencies and other parties from which the
 2748 Executive must solicit a response are:

- 2749 (1) [The Director of] the Department of Public Works and
 2750 Transportation;
- 2751 (2) [The] the Maryland-National Capital Park and Planning
 2752 Commission[, if any part of the property is in the Maryland-
 2753 Washington Regional District in the County];
- 2754 (3) [The] the Washington Suburban Sanitary Commission, if any part
 2755 of the [property] right-of-way is located in the Washington
 2756 Suburban Sanitary District;

- 2757 (4) [All] each public utility [companies] authorized by the Public
- 2758 Service Commission to operate [within] in the area and which
- 2759 [have] has any overhead or underground facilities in the vicinity;
- 2760 (5) [The] the governing body of each incorporated [city, town]
- 2761 municipality or special taxing [[area]] district in which any of the
- 2762 [property may be] right-of-way is located;
- 2763 (6) The [department] [[Department of]] [police] Police Department;
- 2764 [and]
- 2765 (7) [The Department of] the County Fire and Rescue [Services]
- 2766 Service[.]; and
- 2767 (8) Any grantee of a franchise under Article 2, if the franchise
- 2768 authorizes the grantee to install or use any facility in, over, or
- 2769 under the affected right-of-way.

2770 (i) Temporary closure. This Article does not apply to any temporary

2771 closure required by a construction traffic control plan if the closure does

2772 not last longer than 12 months. If special circumstances require that a

2773 temporary closure last longer than 12 months, the Director of Public

2774 Works and Transportation must apply to the Council for approval to

2775 extend the closure for a specified period that does not exceed 24

2776 months. The Council by resolution may approve an extended

2777 temporary closure under this subsection without following the

2778 procedures in this Article.

2779 **49-63. Decision of [council] the Council.**

- 2780 (a) The [decision of the] Council must [be based on] consider the record of
- 2781 the proceedings and the report and recommendations of the County
- 2782 Executive, including [the] any recommendations of the government
- 2783 agencies and [utilities referred to] other parties listed in Section 49-

2784 62(h), and any other relevant and material information [received by] the
2785 Council receives from any person [under subsection (b)].

2786 [(b) A Councilmember or Council staff member may visit the site of a right-
2787 of-way that is proposed to be closed or abandoned. The
2788 Councilmember or staff member must place on the record any
2789 information received at or resulting from the visit which may affect a
2790 Councilmember's decision. The Council may reopen the record at any
2791 time before final action to receive information about a site visit or other
2792 relevant materials. If the Council reopens the record under this
2793 subsection, the Council must notify each party and give that party a
2794 reasonable opportunity to respond to any new information.]

2795 [(c) At any time before final action by the Council, any person who or
2796 association which participated in person or in writing or by counsel at
2797 the hearing may request, in writing, an opportunity to present oral
2798 argument before the Council. The Council may, in its discretion, grant
2799 or deny a request for oral argument. If the Council grants the request,
2800 the Council must notify all parties to the proceedings and offer each
2801 party an opportunity to participate in the oral argument, which must be
2802 limited to information contained in the original hearing record or made
2803 available under subsection (b).]

2804 [(d) (b) The Council may at any time remand an application to the Executive
2805 or the Executive's designee to reopen the record or consider new
2806 information.

2807 [(e) (c) A right-of-way may be abandoned or closed if the Council by
2808 resolution finds that [the record indicates by a preponderance of the
2809 evidence that]:

- 2810 (1) the right-of-way is no longer necessary for present public use or
 2811 anticipated public use in the foreseeable future, or
 2812 (2) the abandonment or closing is necessary to protect the health,
 2813 safety and welfare of the residents [in the neighborhood of] near
 2814 the right-of-way to be abandoned or closed. In assessing health,
 2815 safety, and welfare issues, the Council may consider:
 2816 (A) [the master] any adopted land use plan applicable to the
 2817 neighborhood;
 2818 (B) safe and efficient pedestrian and vehicular traffic patterns
 2819 and flows, together with alternatives, in the immediate
 2820 neighborhood, for [both] local and through traffic; and
 2821 (C) changes in fact and circumstances since the original
 2822 dedication of the right-of-way.

2823 [(f)] (d) A right-of-way which is the sole means of access to any property must
 2824 not be abandoned or closed.

2825 **49-64. Withdrawal of application.**

2826 (a) At any time [prior to] before the Council takes final action [by the
 2827 council] on the application, the applicant may request in writing that the
 2828 application be withdrawn.

2829 (b) [Such] The request [shall] must be made to the [county executive in the
 2830 event] County Executive if the [executive] Executive has not [yet]
 2831 forwarded the application to the [council] Council. If the Executive has
 2832 forwarded the application [has been forwarded] to the [council] Council,
 2833 the request [for withdrawal shall] must be made to the [council]
 2834 Council.

2835 [(c)] [In the event] If the request for withdrawal is [made prior to the
 2836 advertisement of] filed before the public hearing is advertised, the

2837 County must refund the filing fee [required hereunder], less
 2838 administrative expenses, [shall be refunded by the county] to the
 2839 applicant.]]

2840 **49-65. [Records] Notice to Planning Board; filing subdivision plat.**

2841 (a) Not less than [thirty (30) days] 30 nor more than [sixty (60)] 60 days
 2842 [following] after the [adoption of] Council adopts the resolution [of the
 2843 council providing for] to approve an abandonment or closing [pursuant
 2844 to the provisions of this section], the [county attorney shall] Council
 2845 Clerk must notify the [Montgomery County] Planning Board, the
 2846 Directors of Permitting Services and Public Works and Transportation,
 2847 and the County Attorney that the Council has authorized the
 2848 abandonment or closing. [is authorized by the council; and the county
 2849 attorney shall]

2850 (b) The Director of Permitting Services, after receiving a copy of the
 2851 Council resolution, must sign, on behalf of the [county] County, a plat
 2852 of subdivision prepared by the [petitioner] applicant, which the Planning
 2853 Board has [been] approved for recording, [by the planning board
 2854 providing for such] approving the abandonment or closing. [; or when]

2855 (c) [[If the filing of a subdivision plat is not appropriate, the]] [county
 2856 attorney shall] The County Attorney must cause to be recorded [among]
 2857 in the County land records [of the county, in due form for recording,]
 2858 the Council resolution [showing such] which approved the
 2859 abandonment or closing.

2860 (d) Any abandonment or road closure approved after July 1, 2007, is
 2861 automatically revoked by operation of law if each condition specified in
 2862 the approval resolution, including any later amendment to that
 2863 resolution, has not been completed within the time specified in the

2864 resolution or, if the resolution did not specify a completion date, within
 2865 5 years after the Council approved the resolution or amended the
 2866 resolution to insert that condition.

2867 **49-66. Appeal from action of [council] the Council.**

2868 The action of the [council] Council on any application for abandonment or
 2869 closing [shall be] is final, subject to any Council procedure for reconsideration that
 2870 would otherwise apply. [; except, that within thirty (30) days after the date action is
 2871 taken by the council, any person] Any aggrieved [thereby] person may appeal the
 2872 action of the Council approving or denying an abandonment or closing to the [circuit
 2873 court] Circuit Court within 30 days after the Council takes the action.

2874 **49-67. Notice of abandonment or closure.**

2875 [Prior to] Before abandoning or closing any [road or] right-of-way [pursuant to
 2876 action by the council] after Council approval under this [article] Article, the [county
 2877 executive shall] Director of Public Works and Transportation must cause to be posted
 2878 prominently in the area of the [road or] right-of-way [to be closed], for [a period of]
 2879 at least [fifteen (15)] 15 days [immediately following adoption by] after the [council
 2880 of the resolution of closure] Council action, a notice [that such road or] listing the
 2881 date when the right-of-way [shall] will be abandoned or closed [and the date on
 2882 which closing shall take place].

2883 **[49-67A] 49-68. [Abandonments] Abandonment of previously unused [road,**
 2884 **drainage and other] rights-of-way.**

2885 (a) [When] If any [road, alley, crosswalk, pedestrian walkway, water main,
 2886 sanitary sewer, storm sewer, or storm drainage] right-of-way, except a
 2887 right-of-way located entirely in a municipality which has independent
 2888 [[land use]] zoning and subdivision authority, has not been in public
 2889 use, [an] one or more abutting [owner or] property owners may petition
 2890 the Planning Board [for abandonment of] to abandon the [land] right-of-

2891 way. The petition must take the form of a preliminary ~~[[plat]]~~ plan for
 2892 the subdivision of land, and must state the reason for the [request]
 2893 proposed abandonment and show any proposed relocation or
 2894 realignment of the right-of-way, where applicable.

2895 **(b)** The petitioner must notify:

- 2896 (1) ~~[all persons having]~~ each person with a recorded financial interest
 2897 in land abutting the right-of-way;
- 2898 (2) the Department of Public Works and Transportation;
- 2899 (3) the ~~[Department of]~~ County Fire and Rescue [Services] Service;
- 2900 (4) the ~~[Department of]~~ Police Department;
- 2901 (5) the Washington Suburban Sanitary Commission, when
 2902 applicable;
- 2903 (6) ~~[all]~~ each public utility ~~[companies]~~ operating ~~[within]~~ in the
 2904 area; ~~[and]~~
- 2905 (7) the governing body of each incorporated ~~[city, town]~~
 2906 municipality or special taxing ~~[[area]]~~ district which adjoins the
 2907 ~~[property]~~ right-of-way sought to be abandoned; ~~[.]~~ and ~~[[;]]~~
- 2908 (8) Any grantee of a franchise under Article 2, if the franchise
 2909 authorizes the grantee to install or use any facility in, over, or
 2910 under the affected right-of-way.

2911 **[(b)] (c)** The Planning Board must ~~[obtain]~~ solicit the comments of ~~[these~~
 2912 ~~agencies, utility companies, or governmental bodies]~~ each notice
 2913 recipient, and then promptly determine whether:

- 2914 (1) the right-of-way previously was improved or used for the
 2915 purposes for which it was intended or dedicated; and
- 2916 (2) the right-of-way is necessary for anticipated public use.

2917 (d) If a recipient of notice under subsection (b) does not respond within 60
 2918 days after the notice is sent, the Planning Board must presume that the
 2919 recipient does not oppose the proposal.

2920 [(c)] (e) If the Planning Board finds that the right-of-way is not necessary for
 2921 anticipated future public use or that an alternative alignment or location
 2922 will not adversely affect the public interest, the Board may authorize [by
 2923 resolution that] the right-of-way [may] to be abandoned by
 2924 incorporating the abandoned land into an amended plat of subdivision.
 2925 The amended subdivision plat must [be approved in accordance with
 2926 this Article, including] require the dedication of any land [required]
 2927 needed for rights-of-way, easements, and other public uses.

2928 **[49-68. Applicability of article.**

2929 This article shall apply to all public roads and storm drainage rights-of-way,
 2930 except state roads and storm drainage rights-of-way and that portion of roads and
 2931 rights-of-way.]

2932 **[49-68A. Reserved.]**

2933 **Article [VI] 7. Freeways and [Expressways] Controlled Major Highways.**

2934 **49-69. [Authority to establish, etc.; evidence of freeway or expressway;
 2935 public hearing; freeways and expressways defined] Reserved.**

2936 [(a) *Generally.* The county may lay out, establish and construct any existing
 2937 or proposed county road as a freeway or expressway. The county
 2938 executive may, by written regulation, designate that a proposed highway
 2939 is to be constructed as a freeway or expressway. Such regulation shall
 2940 be conclusive evidence that the road, when constructed, is a freeway or
 2941 expressway with all the characteristics and incidents prescribed by this
 2942 and the following five (5) sections.]

2943 [(b) *Public hearing.* In the event the county proposes to construct or
 2944 designate a road as a freeway or expressway and such road is not shown
 2945 as such on a duly adopted master plan of the Maryland-National Capital
 2946 Park and Planning Commission, the county shall hold a public hearing
 2947 on such proposal and shall forward the proposal to the Maryland-
 2948 National Capital Park and Planning Commission for its
 2949 recommendations. It shall cause to be advertised in a newspaper of
 2950 general publication thirty (30) days prior to the date set for a public
 2951 hearing, the time and place of such hearing and a general description of
 2952 the road or area to be designated as a freeway or expressway.]

2953 [(c) *Freeway.* A freeway is an expressway with full control of access. A
 2954 freeway is distinguished from all other expressways by the degree of
 2955 separation of crossroads and the manner of providing access. A freeway
 2956 has no cross traffic and points of access are suitably spaced only at
 2957 crossroads which are separated in grade or connected by right-turns only
 2958 and generally located and designed to provide safe and efficient access
 2959 appropriate for the traffic.]

2960 [(d) *Expressway.* An expressway is a divided arterial highway for through
 2961 traffic with full or partial control of access and generally with grade
 2962 separations at intersections. The distinction between an expressway and
 2963 the normal street or highway is the distance between crossings and
 2964 access connections. Whereas a major street may include numerous
 2965 private driveways, an expressway has none.]

2966 **49-70. [Authority to designate existing and new] Designating means of**
 2967 **[ingress and egress] access to certain highways.**

2968 (a) [The county may by resolution designate as a freeway or expressway all
 2969 or any portion of any county road theretofore laid out, adopted,

2970 established and constructed, subject to the applicable provisions of the
 2971 preceding section.] A Freeway and Controlled Major Highway are
 2972 defined in Section 49-31.

2973 (b) [When] If any existing [county] County road is [designated] classified
 2974 as a [freeway or expressway, then] Freeway or Controlled Major
 2975 Highway:

2976 (1) The [county] Director of Public Works and Transportation may,
 2977 by agreement or condemnation, restrict or limit the right of any
 2978 owner of land abutting the [freeway or expressway] Freeway or
 2979 Controlled Major Highway to lay out or construct any new means
 2980 of [ingress or egress] access to, from or across [such] the abutting
 2981 land to or from the [freeway or expressway] Freeway or
 2982 Controlled Major Highway or to enlarge or extend any existing
 2983 means of [ingress and egress, and the county] access. The
 2984 Director may, from time to time, designate points [at which]
 2985 where access [will be] is permitted, or permit changes in existing
 2986 means of access, consistent with any applicable master plan,
 2987 [upon such] on specified terms and conditions. [as they may
 2988 specify; and]

2989 (2) The [county] Director may close any existing means of [ingress
 2990 or egress] access to, from, or across abutting land to or from the
 2991 [freeway or expressway] Freeway or Controlled Major Highway
 2992 by agreement or condemnation, consistent with any applicable
 2993 master plan.

2994 **49-71. [Method and procedure of acquiring] Acquiring property for**
 2995 **[establishment or construction of freeways or expressways] Freeways or**
 2996 **Controlled Major Highways[, feeder roads, etc].**

2997 [For the construction of] To build any [freeway or expressway] Freeway or
 2998 Controlled Major Highway or [the establishment of] rebuild any portion of any
 2999 existing [county] road as a [freeway or expressway] Freeway or Controlled Major
 3000 Highway, or for any service or feeder [roads] road in connection with a [freeway or
 3001 expressway] Freeway or Controlled Major Highway, the [county] County may
 3002 acquire any real property or any interest in real property [in the same manner and] by
 3003 the same procedure as [such] property may [now or hereafter] be acquired for road
 3004 purposes.

3005 **49-72. [Regulation] Control of use and access.**

3006 When any road has been constructed or designated as a [freeway or
 3007 expressway] Freeway or Controlled Major Highway, the [county] Director of Public
 3008 Works and Transportation:

- 3009 (a) [May regulate,] may restrict or prohibit access to [such freeway or
 3010 expressway] the Freeway or Controlled Major Highway from any
 3011 existing highway, road, or street, or from any new highway, road, or
 3012 street, [; provided, however, that] if reasonable access to [such] the
 3013 freeway or expressway from any existing or [any] new highway, road,
 3014 or street[, shall be provided; and] is maintained;
- 3015 (b) [May regulate] may control, restrict, or prohibit the use of [such freeway
 3016 or expressway] the Freeway or Controlled Major Highway by various
 3017 classes of vehicles or traffic [provided] if an alternate route is provided
 3018 for [such] restricted or prohibited classes of vehicles or traffic; and
- 3019 (c) [May] may maintain, discontinue, abandon, or close, and exercise all
 3020 other powers with respect to [such freeways or expressways] Freeways
 3021 or Controlled Major Highways to the same extent and in the same
 3022 manner as [in the case of] other roads.

3023 **49-73. Access to [freeway or expressway] Freeway or Controlled Major**
 3024 **Highway where it divides property [held] under one ownership.**

3025 [Whenever in the establishment of a freeway or expressway,] If real property
 3026 held [under] by one [(1) ownership] owner is severed by [the freeway or expressway]
 3027 a Freeway or Controlled Major Highway, [then] the [county] Director of Public
 3028 Works and Transportation [, in its discretion,] may provide for access across the
 3029 [freeway or expressway] Freeway or Controlled Major Highway from one [(1)] such
 3030 tract to the other, either at grade or below or above grade, upon such conditions as [it
 3031 prescribes] prescribed. [No such] Any connecting road or roads [shall] must not be
 3032 used for or in connection with the conduct of any roadside business or enterprise. If
 3033 [such tracts at any time cease to be] the affected land is no longer held under one
 3034 [(1)] ownership, the [county] Department may [terminate and] discontinue [such] any
 3035 access road, [or roads; provided, however, that in]

3036 In acquiring [lands, property, rights-of-way, franchises, easements and other]
 3037 property for [the purposes described] any purpose listed in the [four (4)] three
 3038 preceding sections, the [county shall] Director must fully [and properly acquaint]
 3039 inform the owners [thereof with] of the use and restrictions of [such] the property [as
 3040 outlined therein].

3041 **49-74. Right of [ingress or egress] access.**

3042 When a road is constructed as a [freeway or expressway] Freeway or
 3043 Controlled Major Highway, [no] an owner of land abutting the road or other person
 3044 [shall] must not have any right of [ingress or egress] access to, from, or across [such]
 3045 any abutting land to or from the [freeway or expressway] Freeway or Controlled
 3046 Major Highway. [The county in its discretion, at] At the time of the construction of
 3047 the [freeway or expressway] Freeway or Controlled Major Highway or thereafter, the
 3048 Director of Public Works and Transportation may designate points at which access

3049 will be permitted, [upon such] on terms and conditions as [it] the Director may
 3050 specify from time to time.

3051 **49-75. [Adoption of regulations] Reserved.**

3052 [The county executive is authorized to adopt, under method (2) of section 1A-
 3053 15 of this Code, necessary regulations concerning freeways or expressways; such
 3054 may include, but not be limited to, further provisions for the establishment,
 3055 construction, use and access to freeways or expressways.]

3056 **Article [VII] 8. Rustic Roads Program.**

3057 **49-76. Purpose.**

3058 This Article [provides for] authorizes the identification and classification of
 3059 rustic roads in that part of the County [which is within] located in the Maryland-
 3060 Washington Regional District. This Article establishes a program to preserve as
 3061 rustic roads those historic and scenic roadways that reflect the agricultural character
 3062 and rural origins of the County. Preservation of rustic roads [will] must be achieved
 3063 by retaining certain physical features of rustic roads and by certain right-of-way
 3064 maintenance procedures.

3065 **49-77. Definitions.**

3066 In this Article, the following terms have the meanings indicated:

3067 [(a)] *Committee* means the Rustic Roads Advisory Committee[;].

3068 [(b)] *County Council* means the County Council for Montgomery County,
 3069 Maryland sitting as a District Council for that portion of the Maryland-Washington
 3070 Regional District in Montgomery County;]

3071 [(c)] *Exceptional rustic road* means an existing public road or road segment
 3072 which is so classified under Section 49-78[;].

3073 [(d)] *Master Plan of Highways* means the Master Plan of Highways Within
 3074 Montgomery County, an amendment to the General Plan for the Physical
 3075 Development of the Maryland-Washington Regional District[;].

3076 [(e) Planning Board means the Montgomery County Planning Board of the
3077 Maryland- National Capital Park and Planning Commission; and]

3078 [(f)] *Public utility* means any private company or public agency that[:] [(1)]
3079 is regulated as a public utility under [Article 78 of the Maryland Code;] state law, or
3080 [(2)] otherwise provides water, sewer, electric, gas, telephone, or cable service (as
3081 defined in Chapter 8A) in the County.

3082 [(g)] *Rustic road* means an existing public road or road segment which is so
3083 classified under Section 49-78.

3084 **49-78. Rustic road classification and reclassification.**

3085 (a) *Classification.* The County Council may classify, reclassify, or revoke
3086 the classification of an existing public road or road segment as a rustic
3087 road or an exceptional rustic road by [adopting] approving an
3088 amendment to the Master Plan of Highways and the relevant area
3089 Master Plan.

3090 (b) *Criteria for rustic road.* Before classifying a road as rustic, the
3091 [County] Council must find that an existing public road or road
3092 segment:

3093 (1) is located in an area where natural, agricultural, or historic
3094 features are predominant, and where master planned land use
3095 goals and zoning are compatible with a rural/rustic character;

3096 (2) is a narrow road intended for predominantly local use;

3097 (3) is a low volume road with traffic volumes that do not detract
3098 significantly from the rustic character of the road; [and]

3099 (4) (A) has outstanding natural features along its borders, such as
3100 native vegetation, stands of trees, stream valleys;

3101 (B) provides outstanding vistas of farm fields and rural
3102 landscape or buildings; or

3103 (C) provides access to historic resources, follows historic
 3104 alignments, or highlights historic landscapes[.]; and
 3105 (5) the history of vehicle and pedestrian accidents on the road in its
 3106 current configuration does not suggest unsafe conditions.

3107 The [County] Council must not classify a road as rustic if that
 3108 classification will significantly impair the function or safety of the
 3109 [roadway] road network.

3110 (c) *Criteria for exceptional rustic road.* The [County] Council may classify
 3111 an existing public road or road segment as an exceptional rustic road.
 3112 Before classifying a road as an exceptional rustic road, the [County]
 3113 Council must find that the road or road segment:

- 3114 (1) [is] qualifies as a rustic road under subsection (b) [of this
 3115 Section];
 3116 (2) contributes significantly to the natural, agricultural, or historic
 3117 characteristics of the County;
 3118 (3) has unusual features found on few other roads in the County; and
 3119 (4) would be more negatively affected by improvements or
 3120 modifications to the physical characteristics of the road than
 3121 would most other roads in the rustic roads program.

3122 (d) *Significant features.* When the [County] Council classifies a road as a
 3123 rustic road or an exceptional rustic road, the Council must identify the
 3124 significant features of each such road that must be preserved when the
 3125 road is maintained or improved.

3126 [(e) (1) The County Council may by resolution designate all or part of
 3127 certain public roads as interim rustic roads and interim
 3128 exceptional rustic roads. Any road designated under this

3129 subsection must be treated as if the County Council had so
 3130 classified the road under subsection (a) or (c).

3131 (2) The Advisory Committee must advise the Department of Public
 3132 Works and Transportation regarding the significant features of
 3133 roads designated under this subsection that must be preserved
 3134 when the roads are maintained or improved, or when a public
 3135 utility completes work on or near the roads. These significant
 3136 features have the same status as those the Council identifies
 3137 under subsection (d).

3138 (3) The Council may designate or withdraw a designation under this
 3139 subsection by resolution after a public hearing if:

3140 (A) the County Executive asks the Council to withdraw a
 3141 designation so that the road can be maintained or improved
 3142 in a manner not permitted by this Article;

3143 (B) the Advisory Committee asks the Council to designate a
 3144 road or withdraw a designation; or

3145 (C) a public utility asks the Council to withdraw a designation
 3146 so that the public utility can complete work along the road
 3147 in a manner not permitted by this Article.]

3148 **49-79. Maintenance and improvements.**

3149 (a) *County roads.* [Rustic roads] Each rustic road and exceptional rustic
 3150 [roads] road must be maintained and improved in a manner that
 3151 preserves the road's significant features which the Council identified [by
 3152 the County Council] under subsection 49-78(d), but this requirement
 3153 does not preclude improvements [for the purposes of] to promote safety
 3154 or movement of farm equipment. The County Executive must establish

3155 guidelines by [Executive] regulation under method (2) for maintenance
 3156 and improvement of rustic roads and exceptional rustic roads.

3157 (b) *State and park roads.* The [County] Executive must encourage the
 3158 State Highway Administration and the [Montgomery] County Parks
 3159 Department to maintain and improve rustic roads owned by the State or
 3160 Park Commission in a manner consistent with this Article.

3161 (c) *Public utilities.* Public utility work on or near a rustic road or
 3162 exceptional rustic road is limited by this Article only when the work
 3163 will damage a structure identified as a significant feature of the road
 3164 which the Council identified under subsection 49-78(d). [A] Each
 3165 public utility must make all reasonable efforts to limit irreparable
 3166 damage to [such] any significant [features] feature when working on or
 3167 near a rustic road or exceptional rustic road.

3168 (d) If this Article conflicts with [provisions of] Chapter 24A, [the
 3169 provisions of] Chapter 24A [apply] prevails.

3170 **49-80. Rustic Roads Advisory Committee.**

3171 (a) *Membership.* The County Executive must appoint, subject to
 3172 confirmation by the County Council, a Rustic Roads Advisory
 3173 Committee. The Committee has 7 voting members. Each member must
 3174 be a resident of the County. The [County] Executive should appoint:

3175 (1) 3 members who are owner-operators of commercial farmland
 3176 earning 50 percent or more of their income from farming, one of
 3177 whom is a representative of the Agricultural Advisory
 3178 Committee;

3179 (2) one member who [has knowledge of] knows rural preservation
 3180 techniques through practical experience and training;

- 3181 (3) one member who [has knowledge of] knows roadway
 3182 engineering through practical experience and training;
 3183 (4) one member who represents civic associations located in the
 3184 Agricultural Reserve; and
 3185 (5) one member who represents civic associations in areas located
 3186 outside the Agricultural Reserve where there are rustic roads.

3187 The Chairman of the Planning Board must designate a member of the
 3188 planning staff as a non-voting Committee member.

3189 (b) *Officers.* The Committee must elect a chair annually. The Committee
 3190 may select other officers annually as it finds appropriate. A member
 3191 must not serve as chair for more than 2 consecutive years.

3192 (c) *Meetings.* The Committee [meets] must meet at the call of the chair as
 3193 often as required to perform its duties, but at least 6 times each year.
 3194 The Committee must also meet if two-thirds of the voting members
 3195 request in writing that a meeting be held. The Chair must give
 3196 reasonable advance notice of all meetings to members of the Committee
 3197 and the [general] public. A majority of the members are a quorum to
 3198 transact business.

3199 (d) *By-laws.* The Committee may [establish] adopt by-laws to govern its
 3200 activities.

3201 (e) *Duties.* The Committee must:

- 3202 (1) promote public awareness and knowledge of the County rustic
 3203 roads program [in the County];
 3204 (2) review and comment on classification of rustic roads and
 3205 exceptional rustic roads;

3206 (3) review and comment on Executive Regulations and other County
 3207 policies and programs that may affect the rustic roads program;
 3208 and

3209 (4) report on June 1 of each even numbered year to the [County]
 3210 Executive, the [County] Council, and the Planning Board on the
 3211 status of the rustic roads program.

3212 (f) *Staff.* The [County Executive] Chief Administrative Officer must
 3213 provide the Committee with staff, offices, and supplies as are
 3214 appropriated for it.

3215 **Article 9. Pedestrian and Traffic Safety Advisory Committee.**

3216 **49-81. Pedestrian and Traffic Safety Advisory Committee.**

3217 (a) Definition. In this Section "Committee" means the Pedestrian and
 3218 Traffic Safety Advisory Committee.

3219 (b) Established. The County Executive must appoint, subject to
 3220 confirmation by the County Council, a Pedestrian and Traffic Safety
 3221 Advisory Committee.

3222 (c) Composition and terms of members.

3223 (1) The Committee has 17 members.

3224 (2) The Executive must appoint a representative from each of the
 3225 following departments as members:

3226 (A) the Police Department;

3227 (B) the Department of Public Works and Transportation; and

3228 (C) one of the Regional Services Centers.

3229 (3) The Executive must invite a representative from each of the
 3230 following agencies to serve as members:

3231 (A) the County Council;

3232 (B) the County Planning Board;

- 3233 (C) the Montgomery County Public Schools; and
 3234 (D) the State Highway Administration
- 3235 (4) The Executive must appoint one member representing a
 3236 municipality from a list provided by the County chapter of the
 3237 Maryland Municipal League. The Executive must appoint one
 3238 member representing advocates of bicycling.
- 3239 (5) The Executive must appoint the remaining individuals from
 3240 different geographic areas of the County.
- 3241 (6) The term of each member is 3 years. After an appointment to fill
 3242 a vacancy before a term expires, the successor serves the rest of
 3243 the unexpired term.
- 3244 (d) *Voting, officers, meetings, and compensation.*
- 3245 (1) All members of the Committee are voting members.
- 3246 (2) The Executive must designate a member of the Committee as
 3247 Chair for one 2-year term.
- 3248 (3) The Committee meets at the call of the Chair. The Committee
 3249 must meet as often as necessary to perform its duties, but not less
 3250 than 4 times each year.
- 3251 (4) A member must serve without compensation. However, a
 3252 member may request reimbursement for mileage and dependent
 3253 care costs at rates established by the County.
- 3254 (e) *Duties.* The Committee must:
- 3255 (1) advise the Executive and Council on the status of the
 3256 implementation of the recommendations in the Pedestrian Safety
 3257 Final Report, issued in 2002;

3258 (2) advise the Executive and Council of priorities and needs for
 3259 pedestrian and bicycle safety and access, and other pedestrian-
 3260 related issues; and

3261 (3) continue to gather information on pedestrian safety and other
 3262 pedestrian-related issues and identify new issues that emerge.

3263 (f) Annual Report. By November 1 each year, the Committee must submit
 3264 to the Executive and the Council an annual report on its functions,
 3265 activities, accomplishments, and plans and objectives.

3266 (g) Advocacy. The Committee must not engage in any advocacy activity at
 3267 the State or federal levels unless that activity is approved by the Office
 3268 of Intergovernmental Relations.

3269 (h) Staff. The Chief Administrative Officer must provide appropriate staff
 3270 to the Committee.

3271 **Sec. 2. Chapter 32 is amended by inserting Section 32-20A as follows:**

3272 **32-20A. Hitchhiking in street or highway.**

3273 A person must not stand or walk in the main-traveled portion of any public
 3274 street or highway to solicit a ride from the driver or occupant of any vehicle. Any
 3275 violation of this Section is a class C violation.

3276 **Sec. 3. Regulations.**

3277 (a) The County Executive must adopt and submit to the County Council,
 3278 not later than [(date [[120 days]] 12 months after enactment of bill)]
 3279 July 15, 2008 [[,]]:

3280 (1) regulations that revise all road construction standards and
 3281 specifications to be consistent with [[County Code Sections 49-
 3282 34A]] Article 3 of Chapter 49, as amended by Section 1 of this
 3283 Act, and

3284 (2) regulations that include any applicable requirement for speed
 3285 humps under Section ~~[[49-33B]]~~ 49-30, as amended by Section 1
 3286 of this Act.

3287 The Council may by resolution extend these deadlines if compelling
 3288 circumstances warrant. Until the regulations required by this Section
 3289 take effect, any regulations and County design standards in effect when
 3290 this Act became law continue in effect until otherwise amended or
 3291 repealed.

3292 (b) In drafting the regulations required to implement Article 3 of Chapter
 3293 49, the County Executive must actively seek the advice of the County
 3294 Planning Board and affected stakeholders, including representatives of
 3295 motorists, pedestrians, bicyclists, transit users, engineering consultants
 3296 and other experts, environmental advocates, and businesses located in
 3297 the County.

3298 (c) The Executive must submit progress reports to the Council on the
 3299 development of these regulations on September 1, 2007; January 1,
 3300 2008, and April 1, 2008.

3301 (d) If the Council has not approved all applicable regulations, or allowed all
 3302 applicable regulations to take effect without Council action, by the later
 3303 of 90 days after the Council receives the applicable regulation or 90
 3304 days after the deadline for the Executive to submit the regulation under
 3305 subsection (a), the design standards in the table below must govern the
 3306 construction or reconstruction of any County road, except Rustic Roads
 3307 and Exceptional Rustic Roads, until the Council approves all applicable
 3308 regulations.

3309

<u>Classification</u>	<u>Target Speed</u>	<u>Road/Lane Width</u>	<u>Curbside Width⁶</u>	<u>Bike Lane Width²</u>	<u>Sidewalk Width⁸</u>
<u>Freeway</u>	<u>55-65 mph</u>	<u>12' lanes</u>	<u>Variable</u>	<u>none</u>	<u>none</u>
<u>Controlled Major Highway¹</u>	<u>50 mph</u>	<u>12' lanes</u>	<u>Variable</u>	<u>5'</u>	<u>5'</u>
<u>Parkway¹</u>	<u>urban: 25 mph</u> <u>suburban: 40 mph</u>	<u>11' lanes</u>	<u>25'</u>	<u>none</u>	<u>none</u>
<u>Major Highway^{1,3}</u>	<u>urban: 25 mph</u> <u>suburban: 35-40 mph</u> <u>rural: 45 mph⁷</u>	<u>urban: 10.5' lanes</u> <u>suburban: 11' lanes</u> <u>rural: 12' lanes</u>	<u>urban: 20' min.</u> <u>elsewhere: 15'</u>	<u>5'</u>	<u>urban: 15' min.</u> <u>elsewhere: 5'</u>
<u>Country Arterial⁴</u>	<u>suburban: 40 mph</u> <u>rural: 40-45 mph⁷</u>	<u>11' lanes</u>		<u>4'</u>	<u>suburban: 5'</u> <u>rural: none</u>
<u>Arterial^{1,4}</u>	<u>urban: 25 mph</u> <u>suburban: 35 mph</u> <u>rural: 40 mph⁷</u>	<u>urban: 10' lanes</u> <u>suburban: 11' lanes</u> <u>rural: 12' lanes</u>	<u>urban: 15' min.</u> <u>elsewhere: 15'</u>	<u>urban: 4' suburban: 4' rural: 5'</u>	<u>urban: 10' min.</u> <u>elsewhere: 5'</u>
<u>Minor Arterial^{1,4}</u>	<u>urban: 25 mph</u> <u>suburban: 30 mph</u> <u>rural: 35 mph⁷</u>	<u>urban: 10' lanes</u> <u>suburban: 10.5' lanes</u> <u>rural: 11' lanes</u>	<u>urban: 15' min.</u> <u>elsewhere: 15'</u>	<u>4'</u>	<u>5'</u>

<u>Business District Street</u> ¹	<u>25 mph</u>	<u>urban: 10'</u> <u>lanes</u> <u>elsewhere: 11'</u> <u>lanes</u>	<u>urban: 15'</u> <u>min.</u> <u>elsewhere:</u> <u>15'</u>	<u>none</u>	<u>10'</u>
<u>Industrial Street</u> ¹	<u>25 mph</u>	<u>urban: 10'</u> <u>lanes</u> <u>elsewhere: 11'</u> <u>lanes</u>	<u>urban: 15'</u> <u>min.</u> <u>elsewhere:</u> <u>15'</u>	<u>none</u>	<u>5'</u>
<u>Country Road</u>	<u>25 mph</u>	<u>20' road</u>		<u>none</u>	<u>suburban:</u> <u>5'</u> <u>rural:</u> <u>none</u>
<u>Primary and Principal</u> <u>Secondary Residential</u> <u>Streets</u> <u>(no curbs or parking)</u> <u>(w/curbs, no parking)</u> ⁵ <u>(w/curbs, 1-side parking)</u> ⁵ <u>(w/curbs, 2-side parking)</u> ⁵	<u>25 mph</u>	<u>20' road</u> <u>22' road</u> <u>28' road</u> <u>34' road</u>	<u>15'</u>	<u>3'</u>	<u>5'</u>
<u>Secondary Residential</u> <u>Street</u> <u>(no curbs, no parking)</u> <u>(w/curbs, no parking)</u> <u>(w/curbs, 1-side parking)</u> <u>(w/curbs, 2-side parking)</u>	<u>20 mph</u>	<u>20' road</u> <u>20' road</u> <u>20' road</u> <u>24' road</u>	<u>15'</u>	<u>none</u>	<u>4'</u>
<u>Tertiary Residential Street</u>	<u>20 mph</u>	<u>20' road</u>	<u>12'</u>	<u>None</u>	<u>4'</u>
<u>Alley</u>	<u>15 mph</u>	<u>urban (2-way):</u> <u>20' road</u> <u>urban (1-way):</u> <u>16' road</u> <u>suburban: 16'</u>	<u>None</u>	<u>None</u>	<u>none</u>

		<u>road</u>			
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- 3310 (1) Add 1 foot of width to each lane abutting an outside curb. Except in urban areas, add
 3311 another 2 feet of width to each lane abutting an outside curb if a shared-use roadway is
 3312 consistent with the Countywide Bikeways Functional Master Plan or the applicable area
 3313 master or sector plan.
- 3314 (2) Bike lanes must be included when a road is constructed or reconstructed if bike lanes are
 3315 consistent with the Countywide Bikeways Functional Master Plan or the applicable area
 3316 master or sector plan. This bike lane width replaces the added width under note (1).
- 3317 (3) For an open-section Controlled Major Highway, Major Highway or Country Arterial add 5
 3318 feet of width on each road edge for a paved shoulder. A bike lane replaces this additional
 3319 width.
- 3320 (4) For an open-section Arterial or Minor Arterial add 4 feet of width beyond the edge of the
 3321 outside lane for a paved shoulder. If a bike lane is provided on a road edge, the bike lane
 3322 replaces this additional width.
- 3323 (5) For a Primary or Principal Secondary Residential Street, the total curb-to-curb width must
 3324 be the sum of the road width and any master-planned bike lane widths.
- 3325 (6) Curbside width is the area beyond each curb necessary for sidewalks, shared use paths,
 3326 street trees and other landscaping, streetlights, utilities, and other elements. For an open
 3327 section road or street, the area beyond the shoulder is shown in the design standards adopted
 3328 under Chapter 49.
- 3329 (7) Target speed for these classifications in suburban and rural commercial zones is 30 mph.
- 3330 (8) Sidewalks are required on both sides of any road or street, as indicated on this table, except
 3331 Secondary and Tertiary Residential Streets, where the Planning Board may require a
 3332 sidewalk on either or both sides of a street, depending on the area's housing density and the
 3333 potential uses of the sidewalks. An alley must not have any sidewalks.
- 3334 (9) Trees may be planted in a median if the design speed of the road does not exceed 40 miles
 3335 per hour. The median must be at least:
- 3336 (1) 8 feet wide to accommodate trees that will grow to no more than a 4-inch diameter at
 3337 maturity; and
- 3338 (2) 12 feet wide to accommodate any tree that will grow larger than a 4-inch diameter at
 3339 maturity.

3340 (10) A landscape panel abutting a closed-section road must extend at least 5 feet from the curb
3341 and be at least 8 feet long. Trees planted in landscape panels along 'urban' roads must be at
3342 least 30 feet apart unless the tree spacing is interrupted by a public street or driveway.

3343 (11) Each newly built or reconstructed street must retain or filter the following amounts of
3344 stormwater on-site during a 24-hour period: 1/2-1" in an 'urban' area; at least 2" in a
3345 'suburban' area; and at least 3" in a 'rural' area.

3346 **Sec. 4. Continuity and sunset of Pedestrian and Traffic Safety Advisory**
3347 **Committee.** Section 49-81 establishes a Pedestrian and Traffic Safety Advisory
3348 Committee. This Committee continues the Pedestrian Safety Advisory Committee,
3349 created under Council Resolution 14-1281 and extended under Council Resolution
3350 16-192. The County Executive must allow the members of the Pedestrian Safety
3351 Advisory Committee to continue to serve the remainder of their terms as members of
3352 the Pedestrian and Traffic Safety Advisory Committee. The Executive must continue
3353 to stagger the terms of the members of the Pedestrian and Traffic Safety Advisory
3354 Committee so that approximately one-third of the terms of these members continue
3355 to expire each year. Section 49-81 expires on August 31, 2012.

3356 *Approved:*

3357
3358 *Marilyn J. Praisner* *July 5, 2007*
Marilyn J. Praisner, President, County Council Date

3359 *Approved:*

3360
3361 *Isiah Leggett* *July 17, 2007*
Isiah Leggett, County Executive Date

3362 *This is a correct copy of Council action.*

3363
3364 *Linda M. Lauer* *July 17, 2007*
Linda M. Lauer, Clerk of the Council Date