

**MEMORANDUM**

TO: County Council

FROM: <sup>MF</sup> Michael Faden, Senior Legislative Attorney  
<sub>GO</sub> Glenn Orlin, Deputy Council Staff Director

SUBJECT: **Introduction:** Bill 48-06, Streets and Roads – Comprehensive Revisions

Bill 48-06, Streets and Roads – Comprehensive Revisions, sponsored by Councilmember Floreen, Council President Praisner, and Councilmember Trachtenberg, is scheduled to be introduced on December 12, 2006. A public hearing is tentatively scheduled for January 23, 2007, at 7:30 p.m., along with Subdivision Regulation Amendment 06-04, also scheduled to be introduced on December 12.

Bill 48-06 would comprehensively revise, update, clarify, and reorganize County law governing street and road design, construction, regulation, acceptance, abandonment, and funding. The sponsor's statement on ©120-122 describes the major changes the bill would make in more detail.

This packet contains:

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Bill No. 48-06  
 Concerning: Streets and Roads -  
Comprehensive Revision  
 Revised: 12-8-06 Draft No. 7  
 Introduced: December 12, 2006  
 Expires: June 12, 2008  
 Enacted: \_\_\_\_\_  
 Executive: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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



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.**

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

73 **[49-9] 49-5. Right to drain dedicated roads without liability to abutting owners.**

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

79 **[49-10] 49-6. Roads used for [twenty] 20 years may be declared public**  
 80 **highways.**

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

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

89 **[49-5. Appropriations from any source authorized; expenditures.]**

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

95 **[49-4] 49-7. Authority of [citizens' committees of] special taxing [areas] districts**  
 96 **to regulate [construction, maintenance, etc., of] streets and roads.**

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

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

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

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

124 [49-7] **49-8. [Permit required for grading, etc., projects; fee] Restoration of**  
 125 **public right-of-way.**

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

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

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

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

143 (c) The applicant must identify each proposed haul route from the work site  
 144 to an arterial or higher classified roadway.

145 **[49-16] 49-9. Removal of [trees, bushes, etc.] items that obstruct the vision**  
 146 **of motorists on public highways or interfere with the use of public rights-of-way.**

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

157 (1) describes where the obstruction exists;

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

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

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

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

208 **[49-17] 49-10. Obstruction of public rights-of-way.**

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

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

- 212 (b) erect or place any structure, fence, post, rock, or other object in the  
 213 right-of-way, except:
- 214 (1) [rural delivery] mail boxes mounted on a support that will bend  
 215 or break away on impact by a vehicle;
- 216 (2) individual residential newspaper boxes mounted on a support that  
 217 will bend or break away on impact by a vehicle;
- 218 (3) street trees placed and maintained under Section 49-33(j);
- 219 [(3)] (4) ground cover placed and maintained under Section [49-35(k)]  
 220 49-33(k);
- 221 [(4)] (5) under written agreement with the Director of [Department of]  
 222 Permitting Services; or
- 223 [(5)] (6) as otherwise permitted by law.

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

227 **[49-18] 49-11. Permit [for obstruction of] to obstruct public rights-of-way.**

- 228 (a) Except as otherwise provided in this Section, the Director of Permitting  
 229 Services may issue a permit to:
- 230 (1) reconstruct or repair a sidewalk, shared use path, driveway, curb,  
 231 or other structure; [or]
- 232 (2) install, repair, locate, or replace underground utilities[, pipes,] or  
 233 [lines] infrastructure under a sidewalk or shared use path[.]; or
- 234 (3) close a sidewalk or shared use path in conjunction with the  
 235 construction or reconstruction of an abutting building.
- 236 (b) Except as otherwise provided in this Section, the Director [of Permitting  
 237 Services] must not issue a permit for reconstruction or repair of a  
 238 sidewalk or shared use path for more than 6 months, or to close a

239 sidewalk or shared use path for work on utilities[, pipes,] or [lines]  
 240 infrastructure for more than 15 days, unless a safe alternate walkway or  
 241 shared use path is provided on the same side of the street:

242 (1) in a [Central Business District] Metro Station Policy Area, Town  
 243 Center Policy Area, or other area expressly identified in a  
 244 Council resolution;

245 (2) within 20 feet of a bus stop or mass transit station entrance; or

246 (3) on a road:

247 (A) designated as a major or arterial highway;

248 (B) of 4 lanes or more; or

249 (C) designated as a business district street.

250 (c) The Director [of Permitting Services] may issue a permit for  
 251 reconstruction or repair of a sidewalk or shared use path for more than 6  
 252 months, or to close a sidewalk or shared use path for work on utilities[,  
 253 pipes,] or [lines] infrastructure for more than 15 days, without requiring  
 254 that a safe alternate [walkway] sidewalk or shared use path be provided  
 255 on the same side of the street if the Director finds that:

256 (1) construction of [such] a [walkway] sidewalk or shared use path is  
 257 not possible;

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

261 (3) the street is closed.

262 (d) The Director [of Permitting Services] may grant one extension for no  
 263 more than 15 days of a permit to close a sidewalk or shared use path for  
 264 work on utilities[, pipes,] or [lines] infrastructure without requiring that

265 a safe alternate walkway or shared use path be provided on the same  
 266 side of the street on a showing of extreme hardship.

267 (e) The Director [of Permitting Services] must not issue a permit to close a  
 268 sidewalk or shared use path for the purpose of vehicle parking or  
 269 storage of construction materials on the sidewalk or shared use path.

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

272 (g) A permittee must have a valid franchise agreement with the County  
 273 before the permittee installs, repairs, or maintains any utility or  
 274 infrastructure in the public right-of-way.

275 **[49-19] 49-12. [Same-] Exemptions from [sections 49-17 and 49-18] Sections**  
 276 **49-10 and 49-11.**

277 (a) [The provisions of sections 49-17 and 49-18 shall] Sections 49-10 and  
 278 49-11 do not apply to, and no permit [provided for herein shall be]  
 279 under those Sections is required of, any [incorporated] municipality,  
 280 special taxing area, or [governmental] government agency [having  
 281 lawful authority] authorized by law to construct streets, roads, sewers,  
 282 or drainage facilities [within the county;] in the County. [nor]  
 283 However, Sections 49-10 and 49-11 apply to any road that is located in  
 284 a municipality and owned or maintained by the County.

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

289 **[49-20] 49-13. [Same-] Penalty for violation of [sections 49-17 to 49-19, etc]**  
 290 **Sections 49-10 and 49-11.**

291 Any [person who violates any provision] violation of [sections 49-17 to 49-19]  
 292 Sections 49-10 and 49-11 or [the provisions of] any permit granted under [this article  
 293 shall be] those Sections is [subject to punishment for] a Class A violation [as set forth  
 294 in section 1-19 of chapter 1 of the County Code]. [Each day that such violation  
 295 continues shall be deemed to constitute a separate offense.]

296 **[49-21] 49-14. [Deposit] Debris [of articles] likely to injure [man, beast]  
 297 persons, animals, or [tires of] vehicles [; penalty].**

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

305 **[49-24] 49-15. Accumulations of [earth,] soil or foreign material on roads  
 306 [prohibited; penalty].**

307 (a) [Any] A person [who,] must not, personally or by [his action or the  
 308 action of his agents, servants or employees, shall] an agent or employee:  
 309 (1) cause or permit earth, soil, mud, or other foreign material to be  
 310 deposited [in any manner upon the surface of] on any public  
 311 right-of-way [in the county], including any public road, street,  
 312 alley, sidewalk, bikeway, or parking area, or [to be deposited] in  
 313 any drain or ditch designed to carry surface water from any  
 314 public right-of-way, whether [such] the material is spilled,  
 315 dropped, placed, washed, or tracked from [the wheels of  
 316 vehicles,] a vehicle; and [who shall]

317           (2) fail to remove immediately from [such] the right-of-way or drain  
 318           or ditch the material [so] deposited, [, shall be subject to  
 319           punishment for a class C violation as set forth in section 1-19 of  
 320           chapter 1 of the County Code. Each day a violation continues to  
 321           exist shall constitute a separate offense.]

322           (b) [Any] A person [owning or occupying] who owns or occupies land  
 323           contiguous to any public right-of-way [in the county], including any  
 324           public road, street, alley, sidewalk, bikeway, or parking area, or  
 325           contiguous to any drain or ditch designed to carry surface water from a  
 326           public right-of-way, [who] knowing that earth, soil, mud, or any other  
 327           foreign material has been spilled, dropped, washed, or tracked from  
 328           [such] that land onto [such] a right-of-way or into [such] a drain or  
 329           ditch, [shall fail to] must remove immediately from [such] the right-of-  
 330           way or drain or ditch the material so deposited. [shall be subject to  
 331           punishment for a class C violation as set forth in section 1-19 of chapter  
 332           1 of the County Code. Each day a violation continues to exist shall  
 333           constitute a separate offense.]

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

335           **[49-21A] 49-16. Covered loads.**

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

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

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

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

345 (c) As used in this Section:

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

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

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

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

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

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

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

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

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

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

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

363 (4) A fire and rescue vehicle.

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

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

367 **[49-22. Teamsters to remain with vehicles; penalty.]**

368 [It shall be the duty of every teamster or driver of any wagon, carriage, cart or  
369 other vehicle, drawn by a horse or mule, to remain with the same while traveling on

370 any turnpike or public road in the county, or through the streets of any incorporated  
 371 city or town in such county, so as at all times to have the horse attached to the same  
 372 under his control. Any teamster or driver leaving the same while traveling on such  
 373 turnpike, road or street shall be guilty of a misdemeanor, and upon conviction before  
 374 a justice of the peace, shall be fined not exceeding twenty dollars (\$20.00), or be  
 375 imprisoned in the county jail for a term not exceeding thirty (30) days, or both fined  
 376 and imprisoned in the discretion of the court.]

377 **[49-23. Reserved.]**

378 **[49-24A] 49-17. Accumulation of snow and ice on property prohibited.**

- 379 (a) (1) A person is responsible for removing snow and ice on any  
 380 sidewalk, other walkway, shared use path, or parking area on or  
 381 adjacent to property that the person owns, leases, or manages,  
 382 including any walkway in the public right-of-way, to provide a  
 383 pathway wide enough for safe pedestrian and wheelchair use.  
 384 For purposes of this Section, commonly owned property between  
 385 a single-family residential lot and a common walkway is  
 386 considered part of the lot if the intervening common property  
 387 includes a walkway or driveway that serves only that lot.
- 388 (2) Except as provided in paragraph (4), each owner, tenant, or  
 389 manager is jointly and severally responsible for clearing snow  
 390 and ice from the property and complying with Section 31-26A(d).
- 391 (3) The requirements of this Section do not apply to:
- 392 (A) an unpaved walkway;
- 393 (B) a private walkway or parking area on the property of a  
 394 single-family residence;
- 395 (C) a public walkway behind a single-family residence that is  
 396 not directly accessible from the owner's property; or

- 397 (D) a walkway that:
- 398 (i) is at least 25 feet from vehicular traffic;
- 399 (ii) serves only pedestrian destinations that are also
- 400 accessible by another walkway that this Section
- 401 requires to be cleared;
- 402 (iii) was not routinely cleared of snow and ice after
- 403 August 1999; and
- 404 (iv) is not the primary route for pedestrian access to a
- 405 winter recreational facility open to the public.
- 406 (4) (A) An individual who lives in a multi-family residential
- 407 property is not responsible for removing snow and ice
- 408 from a common walkway or parking area.
- 409 (B) A homeowners' association, as that term is used in State
- 410 law, is not responsible for removing snow and ice from a
- 411 walkway adjacent to a single-family residential lot, if the
- 412 lot owner is responsible under paragraph (1) for removing
- 413 snow and ice from that walkway.
- 414 (b) If ice or hard-packed snow is impossible or unreasonably difficult to
- 415 remove, the person is responsible for applying sufficient sand, other
- 416 abrasives, or salt to provide safe pedestrian use.
- 417 (c) The person is responsible for removing snow and ice within 24 hours
- 418 after the end of the precipitation that caused the condition. If a
- 419 snowplow redeposits snow or ice on a sidewalk or other walkway after
- 420 a person has complied with this Section, the person is not responsible
- 421 for clearing the walkway until 24 hours after the snowplow redeposited
- 422 the snow or ice.

- 423 (d) The County Executive must designate a department to enforce this  
 424 Section and may designate other County employees or contractors to  
 425 enforce this Section.
- 426 (e) The Executive may order a different deadline or conditions for  
 427 removing snow and ice during or immediately after a severe or unusual  
 428 storm or other public-safety condition.
- 429 (f) In addition to any other remedy or penalty for a violation of this  
 430 Section, the County may clear the snow and ice and charge the  
 431 responsible property owner for the cost, which the County may collect  
 432 in the same manner as property taxes.
- 433 (g) A violation of this Section is a class C violation. A person authorized to  
 434 enforce this Section must not issue a citation for a violation unless the  
 435 violation still exists 24 hours after a notice of violation. An authorized  
 436 enforcement officer may issue the notice of violation to any person  
 437 responsible under subsection (a) for clearing the snow or ice, or post the  
 438 notice in a conspicuous place on the property where the violation exists.  
 439 Each day a violation continues to exist is a separate violation, except for  
 440 a violation on or adjacent to a single-family residential property.

441 **[49-25] 49-18. Interfering with[,] or damaging[, etc.,] roads under construction**  
 442 **[prohibited; penalty].**

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

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

- 449 (b) interfere with [the work of such] building, repairing, [improvement] or  
 450 [construction,] improving a public road; or [shall]
- 451 (c) tear down or destroy [the] a public road being built, repaired, improved,  
 452 or constructed; or [shall interfere with the work of such building,  
 453 repairing, improvement or construction, or shall]
- 454 (d) tear down or destroy [the] any barricades or lanterns which give notice  
 455 to the public and all parties not to travel the portion of [such] road being  
 456 [so] built, repaired, improved or constructed [during the period of such  
 457 building, repairing, improving or construction shall be subject to  
 458 punishment for]

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

461 **[49-27] 49-19. Conversion of [existing] overhead public utility lines to**  
 462 **underground locations.**

463 [Whenever it shall be necessary as the result of] If the construction or  
 464 improvement of any County road requires any person to relocate any overhead  
 465 electric, telephone, [telegraph] or other overhead [lines of any kind, or related  
 466 facilities, within any such] line or related facility in any County road right-of-way,  
 467 the [county executive shall] County Executive must, by [written] regulation adopted  
 468 under method (3) [of section 2A-15 of this Code], require that any [such lines]  
 469 affected line must be installed underground if [he determines] the Executive finds  
 470 that [such] underground installation is [required by one (1) or more] desirable  
 471 because of any of the following conditions:

- 472 (a) Any fire hazard or possible interference with fire fighting equipment  
 473 due to the location of the [lines] line;
- 474 (b) A close proximity of the [lines] line to any place where people may  
 475 congregate;

- 476 (c) The anticipated increase of traffic on the road to be reconstructed or  
477 improved;
- 478 (d) The population of the area, increase in population, and [the] future  
479 conditions [to be] reasonably anticipated in the normal course of  
480 development;
- 481 (e) [There exists such air] Air traffic in the general area of the road, [the  
482 road is near] proximity of any airport, [it is] location of the line in an  
483 [existing or anticipated] approach to an existing or anticipated runway,  
484 or [in the future, overhead lines would result in a] other future hazard to  
485 [such] air traffic;
- 486 (f) The comparative costs of relocating the [lines] line overhead and  
487 installing [them] it underground;
- 488 (g) The comparative maintenance costs for overhead and underground  
489 lines;
- 490 (h) The comparative frequency of interruptions in service for overhead and  
491 underground lines;
- 492 (i) The improvement in the appearance of the area which would result from  
493 installing the [lines] line underground;
- 494 (j) Any relocation in a Metro Station Policy Area, Town Center Policy  
495 Area, or other area expressly identified in a Council resolution; or
- 496 [(j)] (k) Any other [conditions material to] condition that affects the public  
497 convenience, health, safety, or general welfare.

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

503 [49-28. Reserved.]

504 [49-29. Hitchhiking within main-traveled portion of street or highway.

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

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

510 **Article 2. Franchises.**

511 [49-11] **49-20.** Franchises for use of street[, etc.-]; procedure for granting;  
512 **notice and hearing.**

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

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

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

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

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

528 [(2)] (b) Inquiry as to value. [Upon the first publication of such notice it shall  
529 be the duty of the county executive] After the notice required by

530 subsection (a) is published, the County Executive or [his] a designee [to  
 531 make diligent inquiry as to] must investigate the [money] value of the  
 532 proposed franchise [or right asked to be granted,] and the adequacy of  
 533 the compensation proposed to be paid for it.

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

543 [(4)] (d) *Recommendations of [county executive] County Executive.* The  
 544 [county executive shall] County Executive must, in each case, [and  
 545 subsequent to] after any hearings [which may be] required by this  
 546 [section] Article, forward to the [council his] Council written  
 547 recommendations [setting forth a description of the application,]  
 548 including the Executive's findings as to the value of the proposed  
 549 franchise, [and a resume of] any response to objections which [may]  
 550 have been raised, [as well as] and any other relevant [and pertinent  
 551 matters] issues.

552 As used in this Article, "franchise" includes any franchise, lease, license, or  
 553 sales contract for any part or use of a County right-of-way, and any other right to use  
 554 or occupy a County right-of-way.

555 **[49-12] 49-21. [Same-Conditions of grant; time limit, etc] Council action.**

556 (a) If [no valid objection is made to the granting of such franchise and it  
 557 appears to] the [council] Council finds that [the] granting [of the same]  
 558 the franchise is expedient and proper, the [council shall have authority  
 559 to] Council may grant such franchise for such [money] compensation as  
 560 it [shall], after [consideration of] considering the recommendations of  
 561 [county executive] the County Executive, [determine to be] finds proper  
 562 [and as may be prescribed by such council], for a period not longer than  
 563 [twenty-five (25)] 25 years. [, but such grant may at] If the franchise  
 564 allows the location of a permanent structure with a useful life  
 565 substantially longer than 25 years in the County right-of-way, the initial  
 566 term of the franchise may exceed 25 years.

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

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

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

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

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

585 (d) When any construction authorized by a franchise is finished, each  
586 franchisee must submit a full set of as-built drawings to the Director of  
587 Permitting Services. The required drawings must be submitted in hard  
588 copy and in an electronic format acceptable to the Director. The  
589 required drawings must show in detail the exact location of any facility  
590 installed in a County right-of-way.

591 **[49-13] 49-22. [Same-]County [council] Council to retain municipal control.**

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

597 **[49-14] 49-23. [Same-Private] Certain private rights not [to be] affected.**

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

603 **[49-15] 49-24. [Same-]Application of funds.**

604 All money received by the [county] County under [the provisions of sections  
605 49-11 and 49-12 shall] this Article must be applied to the County general [road  
606 account of the county] fund.

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

608 **[49-30] 49-25. Short title.**

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

611 **[49-31] 49-26. Definitions.**

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

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

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

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

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

634 Construction and constructed[: Such terms shall] include "reconstruction" and  
635 "reconstructed," but [shall] not [include] "maintenance[.]" and includes grading,

636 installation of drainage structures, paving, curbs and gutters, returns of curbs,  
637 sidewalks, bikeways, driveway entrances, guardrails, retaining walls, sodding, and  
638 planting.

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

647 *Director:* The Director of [the County Department of] Public Works and  
648 Transportation or the Director of Permitting Services, as specified, and [the] each  
649 Director's [duly authorized agents] agent.

650 *Drainage structure:* Any culvert, bridge, storm sewer, catch basin, canal,  
651 ditch, or subsurface drain, and any other structure or watercourse designed to [carry  
652 off] convey surface or other waters.

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

654 *Forest conservation plan:* A plan for the retention, afforestation, or  
655 reforestation of forest and trees approved under Chapter 22A.

656 *Ground cover:* Dense masses of low growing, low maintenance, non-invasive,  
657 leafy, grassy, or floral vegetation that cover soil. Unless specifically authorized by  
658 regulation, ground cover does not include bushes, shrubs, or any plant identified as a  
659 weed under County law.

660 *Pedestrian walkway:* Any land, sidewalk, way, or path designated by  
661 appropriate signs for [use as] a pedestrian route.

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

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

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

672 *Subdivision:* The division or partition of a lot, tract or parcel of land into [two  
 673 (2)] 2 or more lots, plots, sites, tracts, parcels, or other divisions for [the purpose,  
 674 whether] immediate or future[, of] rental, sale, or building development. [, and shall  
 675 include] Subdivision includes a resubdivision, but [such term shall] not [include] a  
 676 [bona fide] division or partition of land for agricultural purposes.

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

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

680 **[49-32] 49-27. Applicability of Article.**

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

- 683 (a) State [roads] road;[.]
- 684 (b) Federal [roads] road;[.]
- 685 (c) [Roads lying within] Road located in any park under the jurisdiction of  
 686 the Maryland-National Capital Park and Planning Commission, [except  
 687 roads which are] and not maintained by the [county] County;[.]

- 688 (d) [Roads] Road on a private right-of-way not [within] located in a  
 689 subdivision[.];
- 690 (e) Private [roads] road on an improved lot [within] in a subdivision which  
 691 [do] does not lead to or connect with any other [lots within] lot in the  
 692 subdivision or any other subdivision[.] or
- 693 (f) Municipally owned and maintained road.

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

699 **[49-33] 49-28. Standards and specifications.**

700 (a) Except as otherwise provided in this Article, the construction of all  
 701 roads [shall] must conform to the [minimum requirements,] standards,  
 702 criteria and specifications [provided] in this [article] Article or any  
 703 regulation adopted under this Article. [Whenever] As used in this  
 704 Article, [the word] "standards" means [Montgomery] County design  
 705 standards, and [the word] "specifications" means [Montgomery] County  
 706 standard specifications.

707 (b) [The Montgomery County design standards and Montgomery County  
 708 standard specifications are hereby adopted and made a part of this  
 709 article. The "standards" and "specifications" adopted hereby may be  
 710 amended by the county executive by regulation adopted under method  
 711 (2) of section 2A-15 of this Code. The secretary of the county council  
 712 shall keep among the official records the standards and specifications, as  
 713 adopted by the county council, together with any amendments thereto.  
 714 The secretary shall also prepare and make available to the public printed

715 copies of this article and of such standards and specifications, and they  
 716 shall be given such free distribution or sold for such price as the county  
 717 executive may determine from time to time.] The Department of Public  
 718 Works and Transportation must make available to the public, free or at a  
 719 reasonable cost, an up-to-date copy of all applicable road design  
 720 standards and specifications.

721 **[49-33A] 49-29. Pedestrian walkways, bikeways, and wheelchair traffic.**

722 (a) In the interest of promoting alternative means of transportation and  
 723 enhancing the health and welfare of the citizens of the county, the  
 724 county executive, in cooperation with appropriate government agencies,  
 725 shall develop, as soon as possible after the effective date of this section,  
 726 a plan, which shall include necessary capital improvements programs  
 727 for a system of bikeways and pedestrian walkways to be phased into  
 728 existing road and transportation systems throughout the county. Such  
 729 bikeways and pedestrian walkways shall be consistent with area master  
 730 plans and transportation plans prepared by the county planning board.  
 731 Following the development and approval of the plan for a program for  
 732 bikeways and pedestrian walkways the county shall proceed as rapidly  
 733 as possible with the implementation of that program.]

734 [(b)] (a) [In addition to the phasing in of bikeways and pedestrian walkways  
 735 with existing transportation systems pursuant to subsection (a) of this  
 736 section, bikeways] Bikeways and [pedestrian] walkways [shall] must  
 737 be constructed [along with the construction, reconstruction or relocation  
 738 of] when any [county] County road is constructed, reconstructed, or  
 739 relocated, unless [it is determined that such] the County Council finds  
 740 (for a road improvement authorized in a capital improvements program)  
 741 or the Planning Board finds (for a road improvement made a condition

742 of preliminary plan or site plan approval) that bikeways or walkways in  
 743 that location would [not be in the interest of] reduce public safety, [or]  
 744 would not be feasible, or would be disproportionate in cost to [the need  
 745 therefore or] their probable use [thereof]. [Such] All bikeways and  
 746 [pedestrian] walkways [shall] must conform to approved capital  
 747 improvements programs and [shall] be consistent with area master plans  
 748 and transportation plans [prepared] adopted by the [county planning  
 749 board] Planning Board.

750 [(c)] (b) [In order to] To promote the safety of bicycle and wheelchair travel  
 751 throughout the County, the [county executive shall] County Executive  
 752 must establish, by [written] regulation [adopted under method (3) of  
 753 section 2A-15 of this Code], standards and specifications [for the  
 754 construction and maintenance of] to build and maintain ramps at curbed  
 755 intersections and [for the construction and maintenance of] storm water  
 756 gratings and other openings along roads and streets, in each case of  
 757 [such] a design and type [as not to constitute] that is not a hazard to  
 758 bicycle and wheelchair traffic. [Such nonhazardous] These ramps,  
 759 gratings, and openings [shall] must be [constructed] built and  
 760 maintained [in connection with all projects implemented pursuant to  
 761 subsections] as part of each project under subsection (a) [and (b) of this  
 762 section].

763 **49-30. Traffic Calming.**

764 (a) The Director of Public Works and Transportation must consider  
 765 installing traffic calming and pedestrian-friendly design features in any  
 766 residential street over 1,000 feet long, minor arterial, business district  
 767 street, and industrial street. Traffic calming features include raised  
 768 crosswalks and raised intersections, traffic circles, medians, pedestrian

769 refuge islands, chokers, smaller centerline radii, parking cut-outs, and  
 770 special paving and streetscaping in central business districts or other  
 771 commercial areas.

772 (b) Speed humps that are 12 feet wide may be built on any principal  
 773 secondary residential street, secondary residential street, tertiary  
 774 residential street, or alley, but must be spaced at least 500 feet from any  
 775 other hump and 200 feet from any intersection. Speed humps that are  
 776 22 feet wide may be built on any primary residential street, but must be  
 777 spaced at least 500 feet from any other hump and 200 feet from any  
 778 intersection. Speed humps that are 22 feet wide may be built on a minor  
 779 arterial, but must be spaced at least 750 feet from any other hump and  
 780 300 feet from any intersection. Before speed humps are installed in any  
 781 road, all other requirements specified in applicable regulations must be  
 782 met.

783 **[49-34] 49-31. Classification [and minimum requirements for] of roads.**

784 All roads must be classified as provided in this Section [under the following  
 785 minimum requirements for each class]. This Section defines the vehicular functions  
 786 of each road classification.

787 [(a) Business district road means any road which lies within or is contiguous  
 788 to any area which has been recommended or approved for any class of  
 789 commercial or industrial use in any zoning or master highway plan  
 790 approved by the Maryland-National Capital Park and Planning  
 791 Commission, the Upper Montgomery County Planning Commission or  
 792 the county council, whether such road lies in whole or in part within or  
 793 without the limits of the suburban district. Business district roads shall  
 794 be constructed in conformity with the following minimum  
 795 requirements:

- 796 (1) Width. The right-of-way shall be at least seventy (70) feet wide,  
 797 unless, prior to August 15, 1950, a master highway plan duly  
 798 adopted by the Maryland-National Capital Park and Planning  
 799 Commission has established a right-of-way of less than seventy  
 800 (70) feet for a particular road, in which case the width of the  
 801 right-of-way on such plan shall control. Paving shall be at least  
 802 forty-eight (48) feet wide.
- 803 (2) Construction. The entire right-of-way shall be graded and there  
 804 shall be installed paving, drainage structures, curbs and gutters  
 805 and sidewalks.
- 806 (3) Standards and Specifications.
- 807 a. Grading. All grading shall be done in accordance with  
 808 plans and profiles approved by the director, standard 54  
 809 and specifications article C-1 through article C-9.
- 810 b. Drainage structures. See subsection (h) of section 49-35.
- 811 c. Paving. Paving shall be of the required width and in  
 812 accordance with standard 45A or standard 45B, and the  
 813 applicable specifications indicated thereon.
- 814 d. Curbs and gutters. Curbs and gutters shall be built in  
 815 accordance with standard 10A and specifications article C-  
 816 51.
- 817 e. Sidewalks. Sidewalks shall be built from the property line  
 818 to the back line of the curb and in accordance with  
 819 standard 13B and specifications article C-52.]
- 820 [(b) Arterial road means any road (other than a business district road), which  
 821 connects two (2) or more state or federal roads and which will be used  
 822 primarily for through traffic, whether such road lies in whole or in part

823 within or without the limits of the suburban district. Arterial roads shall  
824 be constructed in conformity with the following minimum  
825 requirements:

826 (1) Width. The right-of-way for all arterial roads shall be at least  
827 seventy-two (72) feet wide. Within the suburban district, the  
828 pavement shall be at least forty (40) feet wide. Outside the  
829 suburban district, the pavement shall be from twenty (20) to  
830 twenty-four (24) feet wide and the roadbed thirty-four (34) to  
831 forty (40) feet wide, as may be found by the county to be  
832 necessary.

833 (2) Construction. Where an arterial road passes through or abuts a  
834 subdivision, whether within or without the suburban district, the  
835 entire right-of-way shall be graded and there shall be installed  
836 drainage structures, paving, curbs and gutters and sidewalks. In  
837 all other areas, curbs and gutters shall be required upon a finding  
838 by the county that they are necessary for proper drainage and the  
839 roadbed shall be graded, and paving and drainage structures shall  
840 be installed.

841 (3) Standards and Specifications.

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

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

846 c. Paving. Paving shall be of the required width and in  
847 accordance with standard 46 and the applicable  
848 specifications indicated thereon.

849                   d.     Curbs and gutters. Curbs and gutters shall be built in  
850                                   accordance with standard 10A and specifications article C-  
851                                   51.

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

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

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

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

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

- 876 (1) Width. The right-of-way shall be at least seventy (70) feet wide,  
877 unless, prior to August 15, 1950, a dedication plat has been filed  
878 among the land records of the county establishing a right-of-way  
879 of less than seventy (70) feet, in which case such established  
880 right-of-way shall prevail for any roads which may be classified  
881 as "primary residential." Within the suburban district and in all  
882 subdivisions, whether within or without the suburban district,  
883 such roads shall have paving at least thirty-six (36) feet wide, and  
884 outside the suburban district the paving shall be from twenty (20)  
885 to twenty-four (24) feet wide and the roadbed from thirty-four  
886 (34) to forty (40) feet wide, as may be found by the county to be  
887 necessary.
- 888 (2) Construction. The entire right-of-way shall be graded, and  
889 drainage structures, paving, curbs, gutters and sidewalks shall be  
890 installed.
- 891 (3) Standards and Specifications.
- 892 a. Grading. All grading shall be done in accordance with  
893 plans and profiles approved by the director, standard 54  
894 and specifications article C-1 through C-9.
- 895 b. Drainage structures. See subsection (h) of section 49-35.
- 896 c. Paving. Paving shall be of the required width and in  
897 accordance with standard 48 and applicable specifications  
898 indicated thereon.
- 899 d. Curbs and gutters. Curbs and gutters shall be built in  
900 accordance with standard 10A or 10C and specifications  
901 article C-51.

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

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

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

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

921 (3) Standards and Specifications.

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

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

926 c. Paving. Paving shall be of the required width and in  
927 accordance with standard 49 and applicable specifications  
928 indicated thereon.

929                   d.     Curbs and gutters. Curbs and gutters shall be built in  
 930                   accordance with standard 10A or 10C and specifications  
 931                   article C-51.

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

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

940     (1)   Width.

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

948                   b.     Pavement. Paving shall be at least twenty-six (26) feet  
 949                   wide for two-way traffic and twenty (20) feet wide for one-  
 950                   way traffic.

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

953     (3)   Standards and Specifications.

- 954 a. Grading. All grading shall be done in accordance with  
 955 plans and profiles approved by the director, standard 54  
 956 and specifications article C-1 through C-9.
- 957 b. Drainage structures. See subsection (h) of section 49-35.
- 958 c. Paving. Paving shall be in accordance with standard 49  
 959 and applicable specifications indicated thereon.
- 960 d. Curbs and gutters. Curbs and gutters shall be built in  
 961 accordance with standard 10A or 10C and specifications  
 962 article C-51.
- 963 e. Sidewalks. Sidewalks within the right-of-way shall be built  
 964 in accordance with standard 13A and specifications article  
 965 C-52.]

966 [(g) Alley means a right-of-way which provides secondary service access for  
 967 vehicles to the side or rear of abutting properties. Alleys shall be  
 968 constructed according to the following minimum requirements:

- 969 (1) Width. Within any area which has been recommended or  
 970 approved for any class of commercial or industrial use in any  
 971 zoning plan approved by the Maryland-National Capital Park and  
 972 Planning Commission, the Upper Montgomery County Planning  
 973 Commission or the county council, the right-of-way and the  
 974 paving to be twenty (20) feet wide. In all other areas, the paving  
 975 shall be at least sixteen (16) feet wide.
- 976 (2) Construction. The entire right-of-way shall be graded and paved  
 977 and drainage structures installed.
- 978 (3) Standards and Specifications:

- 979           a.     Grading. All grading shall be done in accordance with  
980                     plans and profiles approved by the director, standard 54  
981                     and specifications article C-1 through C-9.
- 982           b.     Drainage structures. See subsection (h) of section 49-35.
- 983           c.     Paving. Where an alley is parallel or contiguous to a  
984                     business road, the paving shall be in accordance with  
985                     standard 27A and applicable specifications indicated  
986                     thereon. Where an alley is parallel or contiguous to any  
987                     other than a business district road, paving shall be in  
988                     accordance with standard 27B and applicable  
989                     specifications indicated thereon.]

990        [(h) Service drive or marginal access road means any road which parallels  
991           and is separated by a planting strip from a state, federal, arterial,  
992           business district or primary residential road and which is primarily used  
993           and designed to separate local traffic from through traffic using such  
994           state, federal, arterial, business district or primary residential road, and  
995           to control traffic moving between such through traffic road and service  
996           drive and the local area served thereby. A service drive may be required  
997           prior to the final approval and recording of a dedication plat among the  
998           land records of the county wherever the county or other governmental  
999           authority having jurisdiction finds, as a result of a traffic study, that  
1000          there exists a present or prospective need for so separating and  
1001          controlling the movement of traffic.

1002        (1) Width. Adequate right-of-way shall be provided as found  
1003           necessary by the county to construct a service drive as prescribed  
1004           by standard 50; provided, that where a service drive is established  
1005           on any dedication plat which has been recorded among the land

1006 records of the county prior to August 15, 1950, the width of the  
 1007 right-of-way shall not be greater than that established on the plat.  
 1008 Paving shall be a minimum of twenty (20) feet wide.

1009 (2) Construction. The entire right-of-way shall be graded and  
 1010 drainage structures, paving, curbs and gutters and sidewalk shall  
 1011 be installed.

1012 (3) Standards and Specifications:

1013 a. Grading. All grading shall be done in accordance with  
 1014 plans and profiles approved by the director, standard 54  
 1015 and specifications article C-1 through C-9.

1016 b. Drainage structures. See subsection (h) of section 49-35.

1017 c. Paving. Paving shall be of the required width and in  
 1018 accordance with standard 50 and applicable specifications  
 1019 indicated thereon.

1020 d. Curbs and gutters. Curbs and gutters shall be built in  
 1021 accordance with standard 10A or 10C and specifications  
 1022 article C-51.

1023 e. Sidewalks. Sidewalks shall be built on the side of the  
 1024 service drive upon which building lots abut, and shall be  
 1025 built in accordance with standard 13A and specifications  
 1026 article C-52.]

1027 [(i) Dual lane road means any road which has two (2) separate roadways  
 1028 divided by an island or grass plot, and designed for one-way traffic in  
 1029 each roadway. A dual lane road shall be classified as a business district  
 1030 road, arterial road, primary residential road or secondary residential  
 1031 road. Whenever a dual lane road is constructed pursuant to a zoning or  
 1032 highway plan approved by the Maryland-National Capital Park and

1033 Planning Commission, the Upper Montgomery County Planning  
1034 Commission or the county council, it shall conform to the following  
1035 minimum requirements:

1036 (1) Width. The right-of-way shall be at least one hundred (100) feet.

1037 The width of pavement of each roadway where the dual lane road  
1038 is so classified shall be as follows: Business road, thirty-two (32)  
1039 feet; arterial road, thirty-two (32) feet; primary residential road or  
1040 secondary residential road, twenty (20) feet.

1041 (2) Construction. The entire right-of-way shall be graded and  
1042 drainage structures and paving shall be installed. Wherever  
1043 required by this article for the particular class in which a dual  
1044 lane road is placed, curbs and gutters and sidewalks shall be  
1045 installed.

1046 (3) Standards and Specifications.

1047 a. Grading. All grading shall be done in accordance with  
1048 plans and profiles approved by the director, standard 54  
1049 and specifications article C-1 through C-9.

1050 b. Drainage structures. See subsection (h) of section 49-35.

1051 c. Paving. Paving shall be of the required width and conform  
1052 to standards and specifications for business district,  
1053 arterial, primary or secondary residential roads according  
1054 to the particular class in which the road has been placed.

1055 d. Curbs and gutters. Curbs and gutters shall be built on both  
1056 sides of each roadway of a dual lane road in accordance  
1057 with standards and specifications applicable to the  
1058 particular classification in which such dual lane road has  
1059 been placed; except, that where the classification is

1060 primary or secondary residential, the curb on the side of  
 1061 the roadway next to the dividing strip shall be built in  
 1062 accordance with standard 10B and specifications article C-  
 1063 51.

1064 e. Sidewalks. Sidewalks shall be built on each side of a dual  
 1065 lane road on the side of the respective roadway upon  
 1066 which the building lots abut, and in accordance with either  
 1067 design standard 13A or 13B as determined by the  
 1068 particular classification of the road, and in accordance with  
 1069 specifications article C-51.]

1070 [(j) Rustic road or exceptional rustic road means a road classified as such in  
 1071 the Master Plan of Highways Within Montgomery County under Article  
 1072 VII of this Chapter, as amended. The right-of-way width for each rustic  
 1073 road and exceptional rustic road is as established in the Master Plan of  
 1074 Highways.]

1075 (a) A Freeway is a road meant exclusively for through movement of  
 1076 vehicles at a high speed. Access must be limited to grade-separated  
 1077 interchanges.

1078 (b) A Controlled Major Highway is a road meant exclusively for through  
 1079 movement of vehicles at a lower speed than a Freeway. Access must be  
 1080 limited to grade-separated interchanges or at-grade intersections with  
 1081 public roads.

1082 (c) A Major Highway is a road meant nearly exclusively for through  
 1083 movement of vehicles at a moderate speed. Access must be primarily  
 1084 from grade-separated interchanges and at-grade intersections with  
 1085 public roads, although driveway access is acceptable in urban and  
 1086 denser suburban settings.

- 1087           (d) A Parkway is a road meant exclusively for through movement of  
1088                   vehicles at a moderate speed. Access must be limited to grade-  
1089                   separated interchanges and at-grade intersections. Any truck with more  
1090                   than 4 wheels must not use a Parkway, except in an emergency or if the  
1091                   truck is engaged in Parkway maintenance.
- 1092           (e) An Arterial is a road meant primarily for through movement of vehicles  
1093                   at a moderate speed, although some access to abutting property is  
1094                   expected.
- 1095           (f) A Country Arterial is an Arterial in the County's agricultural reserve.
- 1096           (g) A Minor Arterial is a 2-lane Arterial meant nearly equally for through  
1097                   movement of vehicles and access to abutting property.
- 1098           (h) A Business District Street is a road meant for circulation in commercial  
1099                   and mixed-use zones.
- 1100           (i) An Industrial Street is a road meant for circulation in industrial zones.
- 1101           (j) A Primary Residential Street is a road meant primarily for circulation in  
1102                   residential zones, although some through traffic is expected.
- 1103           (k) A Country Road is a road that has the function of a Primary Residential  
1104                   Street in the County's agricultural reserve.
- 1105           (l) A Principal Secondary Residential Street is a Secondary Residential  
1106                   Street meant to carry somewhat more through traffic.
- 1107           (m) A Secondary Residential Street is a road meant nearly exclusively for  
1108                   access to abutting property in residential zones.
- 1109           (n) A Tertiary Residential Street is a road meant exclusively for access to  
1110                   abutting property in residential zones. A Tertiary Residential Street  
1111                   must not be built unless the Planning Board allows its use when the  
1112                   Board approves a preliminary subdivision plan or site plan.

1113 (o) A Rustic Road or an Exceptional Rustic Road means a road classified as  
 1114 either under Article VII.

1115 (p) An Alley is a right-of-way intended to provide access to the rear or side  
 1116 of lots or buildings and is not intended for the purpose of transporting  
 1117 through traffic.

1118 **49-32. Minimum requirements for types of roads.**

1119 (a) The design standards in the table below govern the construction or  
 1120 reconstruction of any County road except Rustic Roads and Exceptional  
 1121 Rustic Roads. If special circumstances warrant, the Planning Board  
 1122 may adopt, as a condition of preliminary subdivision plan or site plan  
 1123 approval, alternative standards for a specific road, and the County  
 1124 Council may adopt alternative standards for a specific road constructed  
 1125 or reconstructed in a project in the approved capital improvements  
 1126 program. In this Section, an ‘urban’ road is a road segment in or  
 1127 abutting a Metro Station Policy Area, Town Center Policy Area, or  
 1128 other urban area expressly identified in a Council resolution, and an  
 1129 ‘other’ road is a road segment located elsewhere in the County.

<u>Classification</u>	<u>Road/Lane Width ('urban')</u>	<u>Road/Lane Width ('other')</u>	<u>Planned Bike Lanes</u>	<u>Sidewalk ('urban')<sup>6</sup></u>	<u>Sidewalk ('other')<sup>6</sup></u>
<u>Freeway</u>	<u>12' lanes</u>	<u>12' lanes</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Controlled Major Highway<sup>1</sup></u>	<u>12' lanes</u>	<u>12' lanes</u>	<u>5' wide<sup>2</sup></u>	<u>5+’ wide</u>	<u>5' wide</u>
<u>Major Highway<sup>1,3</sup></u>	<u>11' lanes</u>	<u>12' lanes</u>	<u>5' wide<sup>2</sup></u>	<u>5+’ wide</u>	<u>5' wide</u>
<u>Parkway<sup>1</sup></u>	<u>11' lanes</u>	<u>11' lanes</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Arterial<sup>1,4</sup></u>	<u>10.5' lanes</u>	<u>12' lanes</u>	<u>5' wide<sup>2</sup></u>	<u>5+’ wide</u>	<u>5' wide</u>
<u>Country Arterial<sup>4</sup></u>	<u>not applicable</u>	<u>22' road</u>	<u>5' wide<sup>2</sup></u>	<u>none</u>	<u>none</u>
<u>Minor Arterial<sup>1,4</sup></u>	<u>10.5' lanes</u>	<u>11' lanes</u>	<u>4' wide<sup>2</sup></u>	<u>5+’ wide</u>	<u>4' wide</u>
<u>Business District Street<sup>1</sup></u>	<u>10.5' lanes</u>	<u>11' lanes</u>	<u>none</u>	<u>5+’ wide</u>	<u>5' wide</u>
<u>Industrial Street<sup>1</sup></u>	<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<sup>2</sup></u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, no parking)<sup>5</sup></u>	<u>22' road</u>	<u>22' road</u>	<u>3' wide<sup>2</sup></u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, 1-side parking)<sup>5</sup></u>	<u>28' road</u>	<u>28' road</u>	<u>3' wide<sup>2</sup></u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Primary Residential Street (with curbs, 2-side parking)<sup>5</sup></u>	<u>34' road</u>	<u>34' road</u>	<u>3' wide<sup>2</sup></u>	<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 (with curbs, no parking)</u>	<u>20' road</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Secondary Residential Street (with curbs, 1-side parking)</u>	<u>20' road</u>	<u>20' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</u>
<u>Secondary Residential Street (with curbs, 2-side parking)</u>	<u>24' road</u>	<u>24' road</u>	<u>none</u>	<u>5+' wide</u>	<u>4' wide</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>

- 1130 (1) Add 1 foot of width to each lane abutting an outside curb. Add another 1  
 1131 foot of width to each lane abutting an outside curb if a shared-use roadway is  
 1132 consistent with the Countywide Bikeways Functional Master Plan or the  
 1133 applicable area master or sector plan.
- 1134 (2) Bike lanes must be included when a road is constructed or reconstructed only  
 1135 if bike lanes are consistent with the Countywide Bikeways Functional  
 1136 Master Plan or the applicable area master or sector plan. This bike lane  
 1137 width replaces the added width under paragraph (1).
- 1138 (3) For an open-section Major Highway add 4 feet of width on each road edge  
 1139 for a paved shoulder. If a bike lane is provided on a road edge, the bike lane  
 1140 replaces this additional width.
- 1141 (4) For an open-section Arterial, Country Arterial, or Minor Arterial add 2 feet  
 1142 of width beyond the edge of the outside lane for a paved shoulder. If a bike  
 1143 lane is provided on a road edge, the bike lane replaces this additional width.
- 1144 (5) For a Primary Residential Street, the total curb-to-curb width must be the  
 1145 sum of the road width and any master-planned bike lane widths.
- 1146 (6) Sidewalks are required on both sides of roads and streets except for  
 1147 Secondary and Tertiary Residential Streets, where the Planning Board may  
 1148 require a sidewalk on either one or both sides of a street, depending on the  
 1149 housing density and potential use of sidewalks. Alleys must not have  
 1150 sidewalks.
- 1151 (b) The minimum right-of-way for a road may be specified in the applicable  
 1152 master plan or sector plan for the area where the road is located. If a  
 1153 minimum right-of-way for a particular road is not specified in a master  
 1154 plan or sector plan, the minimum right-of-way must be:
- 1155 (1) 80 feet for a Business District Street or Industrial Street;  
 1156 (2) 100 feet for a Primary Residential Street with a median;  
 1157 (3) 70 feet for a Primary Residential Street without a median;  
 1158 (4) 60 feet for a Principal Secondary Residential Street or Secondary  
 1159 Residential Street;

- 1160           (5)   50 feet for a standard Tertiary Residential Street;  
 1161           (6)   27 feet, 4 inches for a reduced-width Tertiary Residential Street  
 1162                 with two-way traffic;  
 1163           (7)   21 feet, 4 inches for a reduced-width Tertiary Residential Street  
 1164                 with one-way traffic; and  
 1165           (8)   20 feet for an Alley.
- 1166       (c)   The maximum curb return radius for an intersection is:
- 1167           (1)   15 feet for an intersection of ‘urban’ roads, with adjustments for  
 1168                 fire and rescue vehicles in the form of rolled or mountable curbs,  
 1169                 sufficient parking setbacks, and the prohibition of lateral  
 1170                 obstructions at corners; and
- 1171           (2)   25 feet for an intersection of ‘other’ roads.
- 1172       (d)   Grass shoulders must be load bearing at specific locations designated by  
 1173                 the Director of Permitting Services after consulting the Directors of Fire  
 1174                 and Rescue Services and Public Works and Transportation.
- 1175       (e)   Trees may be planted in a median if the design speed of the road does  
 1176                 not exceed 40 miles per hour. The median must be at least:
- 1177           (1)   8 feet wide to accommodate trees that will grow to no more than  
 1178                 a 4-inch diameter at maturity; and
- 1179           (2)   12 feet wide to accommodate any tree that will grow larger than a  
 1180                 4-inch diameter at maturity.
- 1181       (f)   A landscape panel abutting a closed-section road must extend at least 5  
 1182                 feet from the curb and be at least 8 feet long. Trees planted in landscape  
 1183                 panels along ‘urban’ roads must be at least 30 feet apart unless the tree  
 1184                 spacing is interrupted by a public street or driveway.
- 1185       (g)   Unless otherwise specified in this Article, each grading, drainage  
 1186                 structure, paving, shoulder, landscaping, and traffic control must be

1187 installed as provided in the latest applicable County design standards,  
 1188 storm drain criteria, and specifications.

1189 **[49-35] 49-33. [General provisions] Road construction requirements.**

- 1190 (a) [Whenever] If alternative standards and specifications are [provided for]  
 1191 allowed in [the preceding section] Section 49-32, any one [(1)]  
 1192 alternative may be [chosen at the option of] selected by the [person  
 1193 applying] applicant for a permit.
- 1194 (b) The [county shall] County must erect name signs at all road  
 1195 intersections. The party managing the construction (either the County  
 1196 or the permittee) must install regulatory signs and markings in each  
 1197 public right-of-way as required by a signing and marking plan approved  
 1198 by the Department of Public Works and Transportation.
- 1199 (c) [Temporary backarounds] Backarounds or turnarounds [shall be] are  
 1200 required [wherever] if the paving of a road ends [otherwise] other than  
 1201 at a paved road intersection. [Such] The turnaround or backaround  
 1202 [shall] must be graded, paved, and [shall] include appropriate drainage  
 1203 structures and temporary curbs, if [required by] the [County]  
 1204 Department so requires.
- 1205 (d) [Where] If a preliminary drainage study indicates that a minimum right-  
 1206 of-way or storm drain easement width [established] required in this  
 1207 Article is inadequate for proper drainage of a particular road, the  
 1208 [county] Department may require [such] any additional right-of-way or  
 1209 storm drain easement [as is found] necessary for [such] proper drainage  
 1210 [purposes; provided, that such requirement shall be made prior to the  
 1211 final approval and recording of], but the Department must notify the  
 1212 permittee of any added right-of-way or easement before a dedication  
 1213 plat [among] is approved by the Planning Board (or equivalent body in

1214 any municipality with land use authority) and recorded in the County  
 1215 land records [of the County].

1216 (e) [Where] If a lot or lots front on a public road, the permittee must install  
 1217 sidewalks, curbs, and gutters [must be installed], except on any  
 1218 [residential road] Secondary or Tertiary Residential Street, [service  
 1219 drive, marginal access road,] or [dual lane road (as those terms are used  
 1220 in Section 49-34)] Service Drive fronting on any lot in a residential  
 1221 zone. This requirement does not apply if the minimum net lot area for a  
 1222 one-family detached dwelling in that zone is [larger] less than 25,000  
 1223 square feet. [The exception in the previous sentence does not apply]  
 1224 However, the Planning Board may require sidewalks, curbs, and gutters  
 1225 in any such zone if the [Planning] Board finds, as a condition of  
 1226 approval of a preliminary subdivision plan or site plan, that sidewalks,  
 1227 curbs, and gutters at that location are necessary to allow access:

- 1228 (1) to an existing sidewalk;  
 1229 (2) to a bus or other public transit stop;  
 1230 (3) to an amenity or public facility that will be used by occupants of  
 1231 the site or subdivision; or  
 1232 (4) by persons with disabilities.

1233 Before the Planning Board approves any [condition] requirement under  
 1234 the preceding sentence, the [Planning] Board must give the  
 1235 [Department] Departments of Permitting Services and [the Department  
 1236 of] Public Works and Transportation a reasonable opportunity to  
 1237 comment on the proposed [condition] requirement.

1238 [(f) In the event a minimum right-of-way prescribed by the preceding  
 1239 section is less than that established for a given road by a zoning or  
 1240 highway plan approved by the Maryland-National Capital Park and

1241 Planning Commission or the County Council, then the width as  
 1242 established by such zoning or highway plan shall prevail and the  
 1243 minimum construction requirements for that road shall meet such  
 1244 standards and specifications as are found necessary and appropriate for  
 1245 such width by the County.]

1246 [(g)] (f) The construction of half roads or any road of less than the [minimum]  
 1247 width [as] required by this Article is prohibited. [; provided, that]  
 1248 However, construction of such portions of roads [shall be] is permitted  
 1249 [where] if the dedicated portion of the road established by a dedication  
 1250 plat and recorded [among] in the County land records [of the County  
 1251 prior to] before August 15, 1950[,] is [of sufficient width] wide enough  
 1252 to permit the grading and construction of paving [eighteen (18) feet in  
 1253 width] 18 feet wide with curbs, [and] gutters, and sidewalks [as are]  
 1254 required [by the design standards in those sections of this Article  
 1255 applicable to the particular classification] for the type of [the] road  
 1256 [under consideration].

1257 (g) [No] A road [shall] must not be constructed unless it connects with an  
 1258 existing road at one [(1)] end. [thereof, and no] A road [shall] must not  
 1259 be constructed short of an intersection [except where] unless it connects  
 1260 with an existing road or [where] the dedication of the right-of-way ends  
 1261 short of an intersection. [Where] If any road construction ends at or  
 1262 goes through an intersection, the intersection [shall] must be completed.  
 1263 [, and if it] If a road ends at other than an intersection or a point of  
 1264 connection with an existing road, [then] turnarounds or backarounds  
 1265 [shall] must be provided.

1266 (h) [Whenever] If drainage structures are required for any particular class of  
 1267 road, the Planning Board must require the applicant to install or

1268 construct drainage structures that the [Planning] Board [determines]  
 1269 finds are necessary or appropriate, after reviewing a preliminary  
 1270 drainage study approved by the Department of Public Works and  
 1271 Transportation, in accordance with applicable design standards and [all  
 1272 applicable] specifications.

1273 (i) Driveway entrances to individual lots [shall be] must be required [upon  
 1274 a finding] if the Planning Board finds that off-street parking facilities  
 1275 are necessary and practicable.

1276 (j) *Street trees.*

1277 (1) On public road rights-of-way, street trees must be planted in  
 1278 accordance with design standards of the Department of Public  
 1279 Works and Transportation. On private road rights-of-way and  
 1280 easements, street trees must be planted in accordance with the  
 1281 technical manual adopted by the Planning Board under Chapter  
 1282 22A.

1283 (2) The [Director] Department of Permitting Services, the  
 1284 Department of Public Works and Transportation, and the  
 1285 [planning] staff of the Planning Board should coordinate the  
 1286 specific location and species of street tree plantings [in order] to  
 1287 promote compatibility of the plantings with road function and  
 1288 safety, signage, maintenance, appropriate [noise and] visual  
 1289 buffering, utilities, other public or private improvements, and  
 1290 aesthetic considerations related to streetscape design.

1291 (k) *Ground cover.*

1292 (1) A property owner may plant and maintain ground cover in a  
 1293 public right-of-way adjacent to the owner's property if the owner:

1294 (A) complies with regulations issued under paragraph (3);

1295 (B) maintains the ground cover to prevent any obstruction of  
 1296 the public right-of-way prohibited under Section [49-17]  
 1297 49-10; and

1298 (C) holds the County harmless for any damage to the ground  
 1299 cover, and any damage or injury caused by the ground  
 1300 cover.

1301 However, ground cover in a public right-of-way adjacent to the  
 1302 owner's property must not exceed a maximum height of 18  
 1303 inches, and must not be planted where it will reduce public safety  
 1304 or impede travel.

1305 (2) In this subsection, property owner or owner includes each person  
 1306 with a legal interest in the property and any successor to that  
 1307 person's interest.

1308 (3) The Director of Public Works and Transportation, after  
 1309 consulting the [Director] Directors of Environmental Protection  
 1310 and [the Director of] Permitting Services, must issue [regulations]  
 1311 guidelines that allow and encourage a property owner to place  
 1312 and maintain ground cover in the public right-of-way adjacent to  
 1313 the owner's property. The [regulations] guidelines must  
 1314 encourage use of ground cover that is environmentally sensitive  
 1315 and promotes conservation of natural resources and more  
 1316 sustainable landscaping, including plant species that:

1317 (A) require reduced or no mowing, fertilizing, or other  
 1318 maintenance;

1319 (B) are drought tolerant and require little watering at any time;

1320 (C) do not inhibit growth of nearby trees; and

1321 (D) include non-turf grasses.

1322 (4) Except as provided in paragraph (1), this subsection does not  
1323 impair the County's right to enter, maintain, occupy, or otherwise  
1324 control any public right-of-way for any purpose.

1325 (l) Curbs and gutters.

1326 (1) A person must not install any curb or gutter in any portion of a  
1327 road that is located in:

1328 (A) an environmentally sensitive watershed area, including a  
1329 Class III, Class IV, or high-quality Class I watershed, as  
1330 designated by the [state] Maryland Department of the  
1331 Environment; or

1332 (B) a headwaters area that the Department of Environmental  
1333 Protection designates as environmentally sensitive, after  
1334 giving the Department of Public Works and Transportation  
1335 and the Planning Board a reasonable opportunity to  
1336 comment.

1337 (2) The Director of Permitting Services may [approve the installation  
1338 of] allow a person to install curbs and gutters in a portion of a  
1339 road located in an area listed in paragraph (1), after giving the  
1340 [Department of Environmental Protection and] the Planning  
1341 Board a reasonable opportunity to comment, if:

1342 (A) installing curbs and gutters will not significantly degrade  
1343 water quality in the area;

1344 (B) curbs and gutters are necessary for vehicular or pedestrian  
1345 safety or the proper grading or maintenance of the road;  
1346 and

1347 (C) a preliminary subdivision plan or site plan approved by the  
1348 Planning Board for the land abutting the portion of the

1349 road where curbs and gutters may be installed expressly  
 1350 permits the curbs and gutters to be installed, if either plan  
 1351 is required for the land in question.

1352 **[49-36. Classification by county executive.**

1353 No person shall construct any road and the county shall not authorize any road  
 1354 to be constructed or issue any permit therefor, until such proposed road shall have  
 1355 been classified by the county executive as prescribed in this section. All  
 1356 classifications of roads shall be by written regulation, adopted by the county  
 1357 executive under method (2) of section 2A-15 of this Code, which shall include a  
 1358 statement of facts and conclusions in support thereof. Classifications of any road  
 1359 may be changed from time to time in like manner. An alphabetical name file of all  
 1360 roads within the county to which this article applies, indicating their classification  
 1361 and status as either "maintained," "accepted for maintenance" or "not maintained"  
 1362 shall be kept by the county. A similar file listing all roads according to election  
 1363 district and road number shall also be kept.]

1364 **[49-37] 49-34. Construction by [county] County.**

1365 (a) [No] The County must not construct any road [shall be constructed by  
 1366 the county, whether on force account or by contract or both,] unless;

1367 (1) the County has previously acquired the right-of-way for [such]  
 1368 the road, [has been previously acquired by the county] or the  
 1369 right-of-way has been dedicated to public use by appropriate  
 1370 recording [among] in the County land records [of the county,];  
 1371 and

1372 (2) the cost of the road [is to] will be charged against the benefited  
 1373 property in accordance with [sections] Sections 49-51 to 49-61  
 1374 and subsection (b) of this [section] Section.

- 1375 (b) [Any road so constructed shall conform to the minimum requirements,  
 1376 standards, and specifications for its particular classification as  
 1377 prescribed by this article. The county may require such construction to  
 1378 be in excess of or better than that prescribed as a minimum.] Nothing in  
 1379 this [Section] Article prohibits the [county] County from constructing a  
 1380 road under a contract with a municipality or [pursuant to] an agreement  
 1381 between the [county] County and another government agency.
- 1382 [(b)] (c) [Whenever] If a road is constructed as a “front foot assessment”  
 1383 project[, pursuant to sections] under Sections 49-51 to 49-61, the  
 1384 [portion of the] cost chargeable and assessed to the benefited abutting  
 1385 properties [shall] must be all costs of construction, including costs of  
 1386 design and of [acquisition of] acquiring land or any interest [therein,] in  
 1387 land for right-of-way.
- 1388 [(c)] (d) All costs in excess of the special benefit to the abutting property or  
 1389 otherwise waived in this [article shall] Article must be borne by the  
 1390 [county] County.
- 1391 [(d)] (e) The [minimum] requirements of [section 49-34 shall] Section 49-32  
 1392 do not apply to any front foot benefit [projects] project authorized for  
 1393 advertising [prior to] before August 16, 1950[; provided,] if that [such  
 1394 projects shall be constructed subject to the provisions of] project  
 1395 conformed to Ordinance S-73[, which ordinance shall be deemed to be  
 1396 in full force and effect for such purpose].
- 1397 [(e)] (f) The [county] County Executive may authorize the construction of  
 1398 [bikeways] shared use paths or [temporary] sidewalks to serve general  
 1399 community needs. [Notwithstanding any other provision of this article,  
 1400 such sidewalks or bikeways may be constructed without regard to the  
 1401 standards and specifications of this article, and the cost of construction

1402 thereof shall be borne by the county.] Whenever [such] a sidewalk or  
 1403 [bikeway] shared use path is [constructed within] built in a right-of-way  
 1404 where there is no pavement or other road construction, [such  
 1405 construction shall not be construed as acceptance for maintenance by  
 1406 the county of] building the sidewalk or shared use path does not mean  
 1407 that the County is responsible for maintaining any part of the right-of-  
 1408 way except the sidewalk or [bikeway] shared use path [so constructed].

1409 **[49-38] 49-35. Permits for grading and construction [–Required;**  
 1410 **application; fee].**

1411 (a) (1) A person must not construct any road, sidewalk, shared use path,  
 1412 curb and gutter, driveway, or drainage structure, or begin any  
 1413 such construction (including clearing, grading, and tree cutting),  
 1414 without a permit from the Director of Permitting Services.

1415 (2) In this Section and Sections 49-36 and 49-37, Director refers to  
 1416 the Director of Permitting Services and Department refers to the  
 1417 Department of Permitting Services.

1418 (3) A person must apply for a permit on forms prescribed by the  
 1419 Director [of Permitting Services], [including] submit detailed  
 1420 plans and specifications, and include locations and record plats  
 1421 approved by the Department [of Permitting Services] and the  
 1422 Planning Board.

1423 (4) If the proposed activity requires a sediment control permit, the  
 1424 [appropriate governmental entity] Department must issue the  
 1425 permit before any activity occurs under a permit issued under this  
 1426 subsection. The State Highway Administration must approve  
 1427 [matters within] any action under its jurisdiction before the  
 1428 Director may approve the permit.

- 1429           (5) As a requirement to issue a permit under this Section, the  
 1430                    Director may require the applicant to designate and bond a haul  
 1431                    route for construction materials, as described in Section 49-8.
- 1432           (b) Before an applicant begins any road, sidewalk, curb and gutter,  
 1433                    driveway or drainage project, except a project which is [entirely] solely  
 1434                    a grading project, [may be begun] on a road or within the boundaries of  
 1435                    a dedication to [the] public use, the applicant for a permit to undertake  
 1436                    any such project [shall] must pay to the County [a] an inspection and  
 1437                    engineering fee [which shall be established] set by the County  
 1438                    Executive by [written regulation adopted under] method (3) regulation  
 1439                    [of Section 2A-15 of this Code].
- 1440           (c) [Where] If any such project is [entirely] solely a grading project, the  
 1441                    applicant [shall] must pay [a fee to the County as] an inspection and  
 1442                    engineering fee to the County [when the office of the Director] if  
 1443                    Department staff does the engineering work on [such] the project and [a  
 1444                    separate] an inspection fee [when] if the applicant [for the permit  
 1445                    furnishes] submits the engineering work. [The fees for grading projects  
 1446                    shall be established and may be revised from time to time by the County  
 1447                    Executive by written regulation adopted under method (3) of Section  
 1448                    2A-15 of this Code.]
- 1449           (d) Any [person who violates any provision] violation of [subsections]  
 1450                    subsection (a), (b), [and] (c), (f), or (g) [of this section shall be subject to  
 1451                    punishment for] is a Class A violation [as set forth in Section 1-19 of  
 1452                    Chapter 1 of the County Code. Each day a violation continues to exist  
 1453                    shall constitute a separate offense].
- 1454           (e) Half the fees [prescribed in] required by this [section shall] Section must  
 1455                    be refunded to the applicant if [his] a permit is [denied] rejected or

1456 withdrawn prior to the commencement of construction. [In the event] If  
 1457 an applicant proposes to undertake a project using materials, standards,  
 1458 or specifications superior to [the minimum requirements of] those  
 1459 required under this [article] Article, the fees [shall] charged must be  
 1460 computed [upon] on the estimated cost of the project as if it [were to be  
 1461 done according to the minimum] met those requirements.

1462 (f) A person, including any utility corporation, must not cut a road [for the  
 1463 purpose of installing or connecting] to install or connect any  
 1464 underground gas, electric power, or telephone [lines] line, or any other  
 1465 underground infrastructure, without a permit from the Director [of  
 1466 Permitting Services]. The Director [of Permitting Services] must  
 1467 supervise all backfilling and repaving of utility trenches to [ensure]  
 1468 assure that the permittee complies with [standard 60 and] all applicable  
 1469 specifications.

1470 (g) A person must not construct sidewalks, driveway entrances, retaining  
 1471 walls, or steps, or cut curbs, without a permit from the Director [of  
 1472 Permitting Services], and without paying a fee [that the County  
 1473 Executive may] set [from time to time] by regulation adopted under  
 1474 method (3).

1475 (h) An aggrieved person may file an appeal with the County Board of  
 1476 Appeals from a denial, suspension, or revocation of a permit issued  
 1477 under this Section within 10 days of the denial, suspension, or  
 1478 revocation.

1479 **[49-39] 49-36. [Conditions] Permit conditions and procedures.**

1480 [The Director may issue construction permits only on] Each permit issued  
 1481 under Section 49-35 must be subject to the following conditions, which the permit  
 1482 must specify:

- 1483 (a) Irrespective of the plans and specifications [accompanying] filed with  
1484 the application, the actual construction [shall] must conform to law and  
1485 to the [minimum] requirements for a road of its class.
- 1486 (b) [Such permit shall be] A permit is nontransferable. [It shall be] A  
1487 permit becomes immediately invalid if any provision [thereof] of the  
1488 permit is violated.
- 1489 (c) The permit [must] automatically [expire] expires 18 months after its  
1490 issuance unless [extended in writing by] the Director [of Permitting  
1491 Services] approves an extension, stating the reasons for the extension.  
1492 However, a permit to reconstruct, repair, or otherwise close a sidewalk  
1493 is subject to the durational and other restrictions in Section 49-18. [An  
1494 extension] The Director must not [be granted] approve an extension  
1495 unless the bond filed with the permit by its term continues in full force  
1496 and effect, a new bond is filed, or the applicant obtains the consent of  
1497 the surety to the extension [is obtained].
- 1498 (d) The permittee and the permittee's agents, [servants] employees, and  
1499 subcontractors must comply with all approved plans, written  
1500 requirements, and permit conditions that the Director [of the  
1501 Department of Public Works and Transportation] specifies, either before  
1502 or during the [course of] grading or construction, that the Director finds  
1503 necessary to protect public safety or [to] avoid unnecessary  
1504 inconvenience to the public during the grading or construction.
- 1505 (e) Any authorized official or employee of the County must be able to  
1506 inspect the construction work materials, plans, and specifications at all  
1507 times. A permittee must notify the Department [of Public Works and  
1508 Transportation] at least 48 hours before starting any construction for  
1509 which the Department issued the permit.

- 1510 (f) [No] The Director must not issue a permit for paving [shall be issued]  
 1511 unless [there has been a final inspection and approval of] the  
 1512 Department has inspected and approved the grading [by the Director].
- 1513 (g) For any proposed road construction [The] the permittee must post a  
 1514 notice in a conspicuous place on each project site as near to a public  
 1515 road as practicable. The notice must take the form of a sign that the  
 1516 Department [of Permitting Services] must furnish to the permittee when  
 1517 the Department issues the permit. The sign must state that the  
 1518 construction is authorized by the Department of Permitting Services  
 1519 under permit and must display the permit number. The permittee must  
 1520 post the sign continuously during construction of the work covered by  
 1521 the permit and until final inspection. A person must not remove the sign  
 1522 until the Department completes its final inspection. If any other person  
 1523 removes the sign or if the sign is damaged, lost, or destroyed, the  
 1524 permittee must replace the sign within 24 hours, excluding Saturdays  
 1525 and Sundays. The Department [of Permitting Services] must issue new  
 1526 signs upon request to replace signs that are damaged, lost, or destroyed.  
 1527 A permittee who does not comply with this subsection [must pay \$50 to  
 1528 the County, and any other penalties in this Article do not apply] has  
 1529 violated the permit.
- 1530 (h) [No permit shall be issued] The Director must not issue a permit for  
 1531 construction unless the right-of-way has been acquired by the County or  
 1532 [has been] dedicated to public use[,] and [such] the acquisition or  
 1533 dedication has been [duly] recorded [among] in the County land records  
 1534 [of the County].
- 1535 (i) [Whenever] If the Director [of Permitting Services] finds that a person  
 1536 has violated the conditions of any permit, the Director [of Permitting

1537 Services] may order the permittee to stop construction and may revoke  
 1538 the permit. The [willful] refusal of any permittee to stop construction  
 1539 after receiving notice of a stop-work order is a separate a violation of  
 1540 this Article.

- 1541 (j) If the Director of Permitting Services finds that the standards and  
 1542 specifications are not feasible or practicable for a particular project, the  
 1543 Director of Permitting Services may require alternate or additional  
 1544 standards and specifications in accordance with good engineering  
 1545 principles, as necessary, and the alternate or additional requirements  
 1546 must be a condition of the permit.]

1547 **[49-39A. Permits for grading and construction -- Appeal.]**

- 1548 (k) An aggrieved person may file an appeal with the County Board of  
 1549 Appeals from the issuance of a stop-work order or the imposition of  
 1550 additional conditions under this Section [49-39]. The appeal must be  
 1551 filed with the Board within 10 days [of the issuance of] after the stop-  
 1552 work order is issued or the [imposition of] additional conditions are  
 1553 imposed.

1554 **[49-40] 49-37. Street and road bonds.**

- 1555 (a) (1) [A] Before beginning any grading or construction, a permittee  
 1556 under this Article must[, before beginning any grading or  
 1557 construction,] deliver to the County acceptable security in the  
 1558 form of an irrevocable letter [or] of credit from a financial  
 1559 institution, cash bond, corporate bond, certificate of guarantee, or  
 1560 other instrument approved by the County Attorney. [and in] The  
 1561 security must guarantee an amount [estimated by the Director of  
 1562 Permitting Services] that the Director estimates to be the total  
 1563 cost to perform all work necessary to complete the subdivision's

1564 streets and roads, including any necessary repairs, in a manner  
 1565 suitable for acceptance by the County. As used in this Section,  
 1566 acceptable security includes any such letter of credit, bond,  
 1567 certificate, or other acceptable instrument.

1568 (2) [For the purposes of] As used in this Article, a certificate of  
 1569 guarantee is an instrument issued by an organization or entity  
 1570 which is approved by the Director [of Permitting Services] and  
 1571 meets [the] capitalization and other reasonable criteria established  
 1572 by [executive] regulation. Other criteria may include the  
 1573 demonstrated expertise of the issuing organization or its members  
 1574 in construction of streets and roads; the estimated cost of the  
 1575 work to be performed by the permittee; the estimated cost of all  
 1576 work guaranteed by the issuing organization or entity; and the  
 1577 incidence of violation of, or otherwise failing to comply with, this  
 1578 Section by all members of the issuing organization or entity. The  
 1579 certificate of guarantee must only be issued by the approved  
 1580 organization or entity on behalf of members in good standing of  
 1581 that organization or entity. The member for whom the certificate  
 1582 is issued must qualify as a ["developer or subdivider"] as  
 1583 defined in Section 50-1. [Any] The Director must resolve any  
 1584 question [as to] about the eligibility of a permittee to post a  
 1585 certificate of guarantee [must be resolved by the Director of  
 1586 Permitting Services] in the Director's sole discretion.

1587 [(2)] (3) [Such letter of credit, cash bond, corporate bond, certificate of  
 1588 guarantee or other instrument shall] Any acceptable security must  
 1589 run to the County[,] and [be conditioned as follows] specify that  
 1590 the permittee and all agents and employees must:

1591 (a.) (A) [That the permittee, his agents and employees, will]  
 1592 comply with all [the] applicable terms, conditions,  
 1593 [provisions,] requirements, standards, and specifications of  
 1594 this Article[.] and any other applicable law;

1595 (b.) (B) [That the permittee, his agents and employees, will]  
 1596 faithfully complete the work for which the permit is  
 1597 issued[.]; and

1598 (c.) (C) [That the permittee, his agents and employees, will save  
 1599 harmless] indemnify the County from any expense  
 1600 incurred [through] because of the failure of the permittee[,  
 1601 his agents and employees,] or any agent or employee to  
 1602 complete the work as required by this Article, [or] and  
 1603 from any damages growing out of the negligence of the  
 1604 permittee or [his agents or employees] any agent or  
 1605 employee.

1606 (b) [In lieu of satisfying the requirements in subsection (a):]

1607 (1) [A] Instead of satisfying the requirements of subsection (a), a  
 1608 permittee may file [a cash or corporate bond, an irrevocable letter  
 1609 of credit, certificate of guarantee or other instrument] an  
 1610 acceptable security approved by the County Attorney in an  
 1611 amount [approved by] that the Director [of Permitting Services to  
 1612 cause] finds would assure appropriate stabilization of the ground  
 1613 surface of any proposed road [projects] project if:

1614 (a.) (A) the permittee is a ["developer or subdivider"] as defined  
 1615 in Section 50-1, [with] and the Director may resolve any  
 1616 question as to the permittee's status [being resolved by the

1617 Director of Permitting Services] in the Director's sole  
 1618 discretion; and

1619 (b.) (B) the permittee files [among] in the County land records,  
 1620 subject to the approval of the County Attorney and the  
 1621 Director [of Permitting Services], a master deed or  
 1622 covenant delineating the entire subdivision and [stating]  
 1623 providing that no lot or parcel has been or may be sold or  
 1624 otherwise alienated until the road running between that lot  
 1625 or parcel and an existing public road is constructed,  
 1626 approved, and accepted by the County for maintenance, or  
 1627 until the County accepts [a road construction cash or  
 1628 corporate bond, irrevocable letter of credit, certificate of  
 1629 guarantee or other instrument ensuring] an acceptable  
 1630 security assuring the completion of the subdivision streets  
 1631 and roads. This [provision] subparagraph does not prohibit  
 1632 the sale of all or a substantial portion of any subdivision to  
 1633 one or more other developers or subdividers.

1634 (2) In determining the conditions and the amount of the [stabilization  
 1635 bond, irrevocable letter of credit, certificate of guarantee or other  
 1636 instrument] acceptable security, the Director [of Permitting  
 1637 Services] may [establish] set reasonable criteria based on  
 1638 practical, engineering, environmental or other considerations,  
 1639 including:

1640 [a.] (A) [The] the estimated cost of the work to be performed, in  
 1641 order to assure sufficient protection to the property on or  
 1642 adjacent to the subject subdivision from harm [due to]  
 1643 caused by storm water, sediment, or other factors resulting

1644 from grading, constructing, or otherwise disturbing the  
 1645 right-of-way; and

1646 [b.] (B) [The] the estimated cost of removing or repairing any  
 1647 hazardous [conditions] condition resulting from the  
 1648 operation of the developer's or subdivider's equipment.

1649 (3) [When] If the Director [of Permitting Services] finds that a road  
 1650 or portion of a road is necessary to protect the public safety or  
 1651 welfare or to connect other subdivisions to public highways,  
 1652 subsection (b)(1) does not apply and the Director [of Permitting  
 1653 Services] may require [a performance bond, irrevocable letter of  
 1654 credit, certificate of guarantee or other instrument for the  
 1655 completion of] an acceptable security to complete the applicable  
 1656 road or portion of road [so determined].

1657 (4) The Director [of Permitting Services] may at any time, after  
 1658 finding a violation of an applicable law, regulation, or the terms  
 1659 and conditions of the permit, revoke the permit and proceed  
 1660 against the [bond, letter of credit, certificate of guarantee or other  
 1661 instrument] security posted to [ensure] assure the appropriate  
 1662 stabilization of the ground surface of the proposed road project.  
 1663 The Director [of Permitting Services] may post stop-work orders  
 1664 throughout the subject subdivision until an [appropriate bond,  
 1665 letter of credit, certificate of guarantee or other instrument]  
 1666 acceptable security is posted which [ensures] assures the  
 1667 performance of all work necessary to complete the streets and  
 1668 roads, including any necessary repairs.

1669 (c) Before acceptance, [all irrevocable letters of credit, bonds, certificates of  
 1670 guarantee and other instruments] each proposed security must be

1671 approved by the County Attorney. If a corporate bond is offered, it  
 1672 must be executed by a surety or guaranty company qualified to transact  
 1673 business in the state. If a cash bond is offered, it must be deposited with  
 1674 the Director of Finance, who must give an official receipt [therefor,]  
 1675 reciting that the cash bond has been deposited in compliance with, and  
 1676 subject to, this Section. [Cash and corporate bonds, letters of credit,  
 1677 certificates of guarantee and other instruments] Any accepted security  
 1678 may be released [upon request of] if the permittee and [approval of the]  
 1679 Director [of Permitting Services] agree. [Cash and corporate bonds,  
 1680 letters of credit, certificates of guarantee and other instruments]  
 1681 Accepted securities may be released on a prorated basis, depending on  
 1682 the amount of completed and approved work. The Director [of  
 1683 Permitting Services determines] must decide the amount to be retained  
 1684 by the County, but the amount retained must not be less than 15% of the  
 1685 total cost of the project until [final acceptance] the Director finally  
 1686 accepts the project.

- 1687 (d) (1) If the Director [of Permitting Services] finds a violation of an  
 1688 applicable law or regulation, or a default in the performance of  
 1689 any term or condition of the permit[, bond, letter of credit,  
 1690 certificate of guarantee] or [other instrument] accepted security,  
 1691 the Director [of Permitting Services] must give written notice of  
 1692 the violation or default to the principal and to the surety of the  
 1693 [bond, letter of credit, certificate of guarantee or other instrument]  
 1694 accepted security. The notice must [state] specify the work to be  
 1695 done, the estimated cost of the work, and the period of time the  
 1696 Director [of Permitting Services] finds reasonably necessary to  
 1697 complete the work.

- 1698           (2) If a cash bond has been posted, the Director [of Permitting  
1699           Services] must give notice of default to the principal; and if  
1700           compliance is not [had] achieved within the time specified, the  
1701           Director may [proceed] without delay and without further notice  
1702           or proceedings [to] use the cash deposited, or any portion of the  
1703           deposit, to cause the required work to be performed by contract  
1704           or otherwise in the Director's discretion [of the Director of  
1705           Permitting Services]. After any default in the performance of any  
1706           term or condition of the permit[, bond, letter of credit, certificate  
1707           of guarantee] or [other instrument] accepted security, the County,  
1708           the surety, and any person employed or engaged on their behalf  
1709           may enter the site to complete the required work.
- 1710           (3) If the County undertakes the required work with funds from the  
1711           forfeited [bond, letter of credit, certificate of guarantee or other  
1712           instrument] security, the funds must be used to pay the cost of  
1713           contracting, including engineering and administration, for  
1714           necessary work within the requirements of the plan, permit,  
1715           [bond, agreement] security, or this Chapter.
- 1716           (4) If the cost of the work exceeds the amount of the [bond, letter of  
1717           credit, certificate of guarantee, or other instrument] security, the  
1718           permittee [continues to be firmly bound under a continuing  
1719           obligation] is liable to pay all excess costs and expenses incurred  
1720           by the County. The costs and expenses must be a lien upon all  
1721           property and all rights to property, real or personal, of any person  
1722           liable to pay [the same] those costs after the costs become due  
1723           and payable, including interest at the rate applicable for overdue

1724 County taxes. The costs must be listed on the tax bill and must  
1725 be collected in the manner of ordinary taxes.

1726 [(2)] (5) If the Director [of Permitting Services] finds a violation of an  
1727 applicable law or regulation by an organization or entity issuing  
1728 certificates of guarantee, the Director [of Permitting Services]  
1729 may revoke all permits of members of that organization or entity  
1730 for which a certificate of guarantee has been posted. The  
1731 Director [of Permitting Services] may post stop-work orders  
1732 wherever applicable until an appropriate [bond, letter of credit or  
1733 other instrument] security acceptable to the County is substituted  
1734 for the certificates of guarantee.

1735 (e) The [County] Executive may adopt regulations under method [(3)] (2)  
1736 to implement this Section. The Director [of Permitting Services] must  
1737 recommend permit fees to include amounts that are necessary to cover  
1738 any increased costs of administration of any programs in this Section.

1739 **[49-41] 49-38. Acceptance of [streets,] roads[, etc.-Authority of county].**

1740 (a) The [county executive] County Executive may [prescribe] specify by  
1741 [written] Executive order, [adopted pursuant to the procedure prescribed  
1742 by law] published in the County Register, the terms and conditions  
1743 [upon] on which any [street, alley,] road [or thoroughfare which has  
1744 been] may be acquired by the [county] County or dedicated to public  
1745 use. [may be accepted, and he may authorize the acceptance of all  
1746 streets, alleys, roads or thoroughfares upon such terms and conditions;  
1747 provided, that such streets, alleys, roads or thoroughfares]

1748 (b) Any action by the County to accept a road must be in writing and fully  
1749 identify the portion accepted. Any accepted road must conform to the  
1750 standards and specifications of [the county road construction code] this

1751 Chapter and all other applicable laws in force at the time of acceptance.  
 1752 [The county council may provide by law for the acceptance of streets,  
 1753 alleys, roads or thoroughfares by the county executive which do not  
 1754 conform to the standards and specifications of such county road  
 1755 construction code; provided, that such law shall establish standards and  
 1756 conditions for acceptance to protect the public interest.]

1757 (c) [Upon the acceptance of] When the County accepts any [street, alley,  
 1758 road [or thoroughfare], it [shall become] becomes a part of the [county]  
 1759 County road system and [shall] thereafter must be maintained by the  
 1760 [county] County at its expense.

1761 **[49-42] 49-39. [Same-Generally] Pre-acceptance review by County.**

1762 (a) All permittees under this [article] Article and their agents, [and servants  
 1763 shall] contractors, and sub-contractors must comply with all applicable  
 1764 provisions of this [article, and until] Article. Until the County accepts a  
 1765 road constructed under [the provisions of] this [article] Article [is  
 1766 accepted] for maintenance [by the county], the permittees, their agents,  
 1767 [and servants] contractors, and sub-contractors and the bond given  
 1768 under this [article shall] Article remain liable for the faithful  
 1769 performance of [the provisions] all requirements.

1770 (b) After completion and final inspection of a road, the [county shall]  
 1771 County must either accept [such] the road, [upon a finding] if the  
 1772 Director of Permitting Services finds that [the] its construction [of  
 1773 same] has [complied with] met all requirements of this [article] Article,  
 1774 and release the bond, or [it shall] the Director must reject the road by  
 1775 written [notification] notice to the permittee and [his] surety, where [a  
 1776 corporate bond has been] an acceptable security was posted, specifying  
 1777 the reasons for [such] rejection by reference to the particular [provision

1778 of this article] requirement which has been violated, and allow a  
 1779 specified reasonable time[, to be specified therein,] for [such] the  
 1780 permittee or [his] surety to comply with [the provisions of this article]  
 1781 all applicable requirements.

1782 (c) If the permittee or [his] surety does not [thereafter], within the time  
 1783 specified, complete the construction [according to the provisions of this  
 1784 article] as required, [then] the [county shall] Director must [forthwith  
 1785 proceed to do whatever is] take any necessary action to cause the  
 1786 construction to comply with this [article, and the] Article. The  
 1787 permittee and [his bond shall thereupon be] surety are jointly liable for  
 1788 any expense incurred thereby.

1789 (d) [Any acceptance of a road by the county shall be in writing, fully  
 1790 identifying the road. Thereafter, the road shall be maintained at county  
 1791 expense.] [Where] If cash has been deposited [pursuant to] under  
 1792 subsection [(c) of section 49-40] 49-37(c) and a road is not accepted, the  
 1793 [county] County may withhold any funds remaining in the cash deposit  
 1794 account until [compliance by] the permittee complies with [the  
 1795 provisions of] this [article] Article. If the permittee does not comply,  
 1796 the [county] County may declare a forfeit of [such] any amount [as is  
 1797 required to effect] needed to bring the road into compliance.

1798 **[49-43] 49-40. Waivers of requirements of Article.**

1799 (a) The [requirements] Director of Permitting Services may waive any  
 1800 requirement of this Article for sidewalks, rights-of-way widths, [curbs  
 1801 and gutters, paving widths, street trees,] grade percentages, full-width  
 1802 grading, [construction to intersection,] and the construction of both  
 1803 roadways of a dual [lane] road, or any combination of them, [may be  
 1804 waived by the Director of Permitting Services] as allowed in this

1805 Section, for any [roads to be] road constructed by the County or  
 1806 [permittees] a permittee.

1807 (b) The Director must apply the following standards for granting or denying  
 1808 waivers [are established]:

1809 (1) *Sidewalks.*

1810 (A) Terrain waiver. [Upon a finding that] The Director may  
 1811 waive any requirement to install sidewalks if:

1812 (i) the lots abutting the right-of-way are unimproved;  
 1813 [or that]

1814 (ii) the street was lawfully graded [prior to] before  
 1815 August 15, 1950, and the terrain is so steep and  
 1816 uneven that [the] grading for sidewalks cannot be  
 1817 done except at excessive cost, or [that]

1818 (iii) houses or buildings abutting the right-of-way which  
 1819 were constructed [prior to] before August 15, 1950,  
 1820 are so situated, and the property upon which [such]  
 1821 those houses or buildings are located is so graded,  
 1822 that the construction of sidewalks is undesirable,  
 1823 the waiver may be granted].

1824 (B) Waivers not allowed. Notwithstanding the [above]  
 1825 preceding subparagraph, [upon a finding that] the Director  
 1826 may deny a waiver if:

1827 (i) the street involved [in] is a [primary residential  
 1828 road] Primary Residential Street, Industrial Street,  
 1829 Business District Street, Minor Arterial or [an  
 1830 arterial road,] Arterial, Major Highway, or  
 1831 Controlled Major Highway; or [that]

1832 (ii) the required sidewalks [which are the subject of the  
 1833 application] are necessary or desirable to provide  
 1834 safe access for pedestrians[, the waiver may be  
 1835 denied].

1836 (C) Waiver for fee payment. As an alternative to building a  
 1837 sidewalk on an existing or proposed street, an applicant  
 1838 may be allowed to pay a fee under certain circumstances.  
 1839 The otherwise required sidewalk must not connect to  
 1840 another existing or proposed sidewalk, shared use path, bus  
 1841 stop, school, or other public facility. The fee must equal  
 1842 the full cost to build the sidewalk, including the design and  
 1843 supervision costs. This fee must be paid, any necessary  
 1844 right-of-way must be dedicated, and any necessary  
 1845 perpetual easement must be recorded before the Director  
 1846 issues any road construction permit for the proposed  
 1847 public street. The revenue from these fees will be  
 1848 assigned to a capital account for sidewalk construction and  
 1849 may be expended if appropriated by the County Council.

1850 (2) Right-of-way widths. [A waiver of] The Director may waive or  
 1851 reduce any right-of-way width [may be granted whenever there is  
 1852 a finding that] if:

1853 (A) the proposed right-of-way connects with an existing right-  
 1854 of-way of substandard width which was lawful when  
 1855 established, but [a waiver] the Director must not [be  
 1856 granted for] waive or reduce any part of [such] the  
 1857 proposed right-of-way which is beyond a four-way

1858 intersection or any other logical point of widening; [. A  
1859 waiver may be granted upon a finding that]

1860 (B) the proposed right-of-way is the connecting link of a street  
1861 and the right-of-way at each end is [of] a substandard  
1862 width which was lawful when established. [A waiver may  
1863 also be granted when there is clear and convincing  
1864 evidence that the applicant has made every reasonable  
1865 effort to acquire additional right-of-way and has been  
1866 unable to do so.]

1867 [(3) *Curbs and gutters.* A requirement to install curbs and gutters  
1868 may be waived only if:

1869 (A) all or substantially all of the houses and buildings  
1870 constructed or to be constructed on the lots abutting the  
1871 road are or will be set back from the right-of-way line a  
1872 distance which substantially exceeds the minimum setback  
1873 requirement;

1874 (B) engineering studies demonstrate that the stormwater which  
1875 will flow on or over the right-of-way or the neighboring  
1876 properties can be carried off by open, sodded, or paved  
1877 ditches, and the use of such ditches is feasible;

1878 (C) the applicant agrees to construct whatever safety devices,  
1879 including sidewalks, are necessary to eliminate any hazard  
1880 to vehicular and pedestrian traffic resulting from such  
1881 ditches; and

1882 (D) the estimated cost of County maintenance of the road will  
1883 not be excessive.]

- 1884 [(4) *Paving widths.* Waivers of pavement widths may be granted on  
 1885 the same grounds as set forth above the curbs and gutters or  
 1886 whenever the right-of-way is inadequate and a waiver of right-of-  
 1887 way width has been granted.]
- 1888 [(5)] (3) *Grade percentages.* [A waiver may be granted when] The  
 1889 Director may waive or reduce any required grade percentage if  
 1890 the [proposed] road connects with [an existing] another road or  
 1891 private driveway in such manner that the grade percentage  
 1892 required by this Article cannot be provided. [A waiver may also  
 1893 be granted whenever it is found that adherence to the grade  
 1894 percentage requirements of this Article would result in a  
 1895 substantial depreciation in the value of the houses or buildings  
 1896 previously constructed on the lots abutting the proposed street.]
- 1897 [(6)] (4) *Full-width grading.* The Director may waive or reduce any  
 1898 requirement for full-width grading [may be waived] if:
- 1899 [a.] (A) a grading permit was issued before August 15, 1950, all  
 1900 grading required by [such] that permit was done, sidewalks  
 1901 are not required or are waived, [and] further grading is not  
 1902 required to construct the pavement or curbs and gutters, [. However, a waiver must not be granted if] and a majority  
 1903 of the lots abutting the proposed road [are undeveloped]  
 1904 have been developed;
- 1905 [b.] (B) the [waiver will result in the protection of] reduced width  
 1906 is needed to protect a specimen tree, significant [stands]  
 1907 stand of mature trees, or certain trees designated for  
 1908 preservation in an approved forest conservation plan or  
 1909 other regulatory approval; or  
 1910

1911 [c.] (C) for [secondary residential roads] a Secondary Residential  
 1912 or Tertiary Residential Street, the applicant proposes to  
 1913 [construct the extension of] extend an existing paved road  
 1914 which ends short of an intersection, [and] the right-of-way  
 1915 containing the existing paved road is not graded to its full  
 1916 width, and the waiver does not apply beyond the  
 1917 intersection.

1918 [(7) *Construction to intersection.* The requirement that no road shall be  
 1919 constructed short of an intersection may be waived when there  
 1920 are no houses or buildings on the property abutting that portion of  
 1921 the right-of-way covered by the waiver request, and the cost of  
 1922 constructing the intersection included in the waiver request does  
 1923 not exceed normal street development cost.]

1924 [(8)] (5) *Dual [lane] roads.* [A waiver may be granted permitting] The  
 1925 Director may allow the construction of only one [(1)] roadway of  
 1926 a dual [lane] road [whenever] if:

1927 (A) the applicant for [such] a waiver does not own the property  
 1928 abutting the roadway for which the waiver is requested; [,  
 1929 and such]

1930 (B) the abutting property is undeveloped; [and]

1931 (C) the temporary use of two-way traffic [of] on the single  
 1932 roadway to be constructed will not interfere with the flow  
 1933 of traffic so as to cause congestion; [, and]

1934 (D) each intersection [is] will be constructed completely[,]; and

1935 (E) the main drainage system [is] will be constructed as a part  
 1936 of the roadway first constructed.

- 1937 (c) In addition to the other provisions of this Section, any person may  
 1938 propose temporary or interim improvements to an existing public road  
 1939 by filing a written request for a waiver of any requirement of this [road  
 1940 construction code] Article. The County Executive may grant the  
 1941 [person's] request for a waiver in whole or in part when the Executive  
 1942 finds, by notice published in the County Register, that the application  
 1943 satisfies the following conditions:
- 1944 (1) The Director of Permitting Services, after reviewing detailed  
 1945 plans and specifications of the proposed improvements, must  
 1946 recommend in writing, using waiver criteria developed by the  
 1947 Department of Public Works and Transportation, that the  
 1948 Executive should approve or disapprove the improvements  
 1949 proposed in the plans submitted by the applicant and state the  
 1950 reasons for the recommendation. The failure of the Director to  
 1951 act on the plans within 30 days after submission constitutes the  
 1952 Director's support of the Executive granting the waiver[;].
- 1953 (2) [Where] If a road is proposed to be improved by the County, the  
 1954 road [to be improved] is [included] listed for construction or  
 1955 reconstruction in an approved six-year capital improvements  
 1956 program[;].
- 1957 (3) [That an] An immediate, temporary improvement is necessary to  
 1958 provide safe vehicular access to residents presently residing on or  
 1959 near the road[;].
- 1960 (4) The road is a County public road, and all rights-of-way required  
 1961 for the proposed improvements [has] have been acquired by or  
 1962 dedicated to the County[;].

- 1963 (5) The applicant for such a waiver has agreed to make, or cause to  
 1964 be made, all of the proposed improvements in the road at no cost  
 1965 to the County. An applicant under this [Article shall] subsection,  
 1966 [prior to] before beginning any grading or construction, must  
 1967 deliver to the County a cash or corporate bond in [such] the  
 1968 amount [as is] estimated to be the total cost of the project. [Such]  
 1969 The cash or corporate bond [shall] must run to the County[,] and  
 1970 [be conditioned as follows] require the applicant to:
- 1971 [a.] (A) [That the applicant will] comply with all [the] applicable  
 1972 terms, conditions, [provisions,] requirements, standards,  
 1973 and specifications of this Article[.];
- 1974 [b.] (B) [That the applicant will] faithfully complete the work for  
 1975 which the permit is issued[.]; and
- 1976 [c.] (C) [That the applicant will save harmless] indemnify the  
 1977 County from any expense incurred through failure of the  
 1978 permittee[, his] or the permittee's agents and [servants]  
 1979 employees, to complete the work as required by this  
 1980 Article or from any damages [growing out of] that result  
 1981 from the negligence of the [applicant or his agents or  
 1982 servants] permittee or the permittee's agents or employees.
- 1983 (6) The applicant for [such] a waiver [shall] under this subsection  
 1984 must submit for recording in the County land records [of the  
 1985 County for himself and for all other petitioners for such waiver],  
 1986 in a form approved by the County Attorney, covenants which  
 1987 bind the applicant, [and] each petitioner, and [all of] their  
 1988 successors in title to accept, as against each of their properties  
 1989 which are adjacent to [such] the road, any future special

1990 improvement assessments levied [for the construction of such] to  
 1991 build the road, reserving [in such covenants] the right to  
 1992 challenge any assessment [in excess of] which exceeds the  
 1993 amount by which [such] the property is specially benefited [by  
 1994 such construction].

1995 (d) The County may [provide] make temporary or interim improvements to  
 1996 an existing public road without construction or reconstructing [the  
 1997 same] it, and thereby waive any requirements of this [road construction  
 1998 code upon a written finding by] Article if the County Executive finds,  
 1999 by notice published in the County Register, that [all of the following  
 2000 conditions are satisfied]:

2001 (1) [The] the road to be improved is [included] listed for planning  
 2002 and design or for construction or reconstruction in the most  
 2003 recently approved six-year capital improvements program;

2004 (2) [That] an immediate, temporary improvement is necessary to  
 2005 provide safe vehicular access to nearby residents [presently  
 2006 residing on or near the road];

2007 (3) [The] the road is a County public road, and no additional right-of-  
 2008 way [need be acquired] is needed for the proposed improvement;  
 2009 and

2010 (4) [That the waiver of] waiving any [of the requirements]  
 2011 requirement of [the road construction code] this Article will not  
 2012 [be detrimental to the] impair public safety.

2013 [(e) [Any provision of this road construction code may be waived for a  
 2014 community development area project falling within the boundaries of,  
 2015 or as part of, urban renewal projects, community development or  
 2016 redevelopment projects, and neighborhood improvement projects

2017 approved in the capital improvements program for the purpose of  
2018 eliminating blight and slums and preventing blight and deterioration of a  
2019 neighborhood or designated area; provided, that the County Executive  
2020 shall make a written finding that such project contributes to the  
2021 objectives and purposes of the approved program and will not  
2022 substantially impair the purposes of this Code.]

2023 [(f)] (e) The County may [provide] make temporary or interim improvements  
2024 to an existing public road without construction or reconstructing [the  
2025 same] it, and thereby waive any requirements of this [road construction  
2026 code upon a written finding by] Article if the County Executive finds,  
2027 by notice published in the County Register, that [all of the following  
2028 conditions are satisfied]:

- 2029 (1) [The] the road improvements are needed to relieve hazardous  
2030 [and] or emergency conditions, or to protect the health and well-  
2031 being of the community;
- 2032 (2) [The] the road to be improved is less than [one and one-fourth (1  
2033 1/4) mile in length] 1 1/4 miles long, not located in a new  
2034 subdivision, and no additional right-of-way [need be acquired] is  
2035 needed for the proposed improvement;
- 2036 (3) Existing and projected traffic levels are appropriate to the  
2037 construction standards proposed;
- 2038 (4) [The] the road improvements are limited to surface treatments  
2039 and[or] minor drainage improvements;
- 2040 (5) [The] the road improvements will reduce road maintenance  
2041 expenses;

2042 (6) [The] the County Executive has received a petition endorsing the  
 2043 proposed improvements signed by a substantial majority of the  
 2044 property owners adjacent to the road; and

2045 (7) [The road] the proposed improvements and their estimated costs  
 2046 [thereof] were [specifically] expressly included in the County  
 2047 Executive's annual budget, [submission] and [have been  
 2048 approved by] the Council appropriated all necessary funds.

2049 [(g)] (f) [Any] The County Executive may waive any provision of [the road  
 2050 construction code may be waived by the County Executive in event of]  
 2051 this Article to respond to an unforeseen emergency or disaster, such as a  
 2052 flood, hurricane, or public health crisis, or [compliance] to comply with  
 2053 [implementing federal] Federal or [state] State rules, regulations or  
 2054 recommendations issued to deal with any such emergency or disaster;  
 2055 [provided, that a written finding and determination shall be made] if the  
 2056 Executive:

2057 (1) issues an Executive order which states the nature of the  
 2058 unforeseen emergency or disaster, the scope and duration [of the  
 2059 waiver] and any other conditions of [such] the waiver, and [such  
 2060 findings and determinations shall be]

2061 (2) promptly [communicated] submits a copy of the order to the  
 2062 County Council.

2063 [(h)] Before any requirement to construct a sidewalk, curb, or gutter is  
 2064 waived under this Section, or the Director sends a waiver of such a  
 2065 requirement to the County Executive for approval, the Director must  
 2066 give the Planning Board and the Department of Environmental  
 2067 Protection a reasonable opportunity to comment on the environmental  
 2068 and land-use effects of waiving the requirement.]

2069 (g) The Planning Board may waive any requirement, as allowed in this  
 2070 Section, for any private road to be constructed under an approved  
 2071 preliminary subdivision plan or site plan.

2072 **[49-44] 49-41. Penalty for violations of [article] Article.**

2073 Any [person violating any provision] violation of this [article shall be subject  
 2074 to punishment for] Article is a class A violation, except as expressly provided  
 2075 otherwise [as set forth in section 1-19 of chapter 1 of the County Code]. [Each day a  
 2076 violation continues to exist shall constitute a separate offense.] [This section shall  
 2077 not apply to subsections (b) and (c) of section 49-38.]

2078 **49-42, 49-43, 49-44. Reserved.**

2079 **Article [III] 4. Acquisition of Land [for Streets and Sidewalks].**

2080 **49-45. [Acquisition of] Authority to acquire land for [use in opening new**  
 2081 **roads, sidewalks, etc., by purchase] transportation purposes.**

2082 The [county shall have full power to agree and contract with owners for the  
 2083 purchase of] County may buy land[, the use of] which [may be required] is needed in  
 2084 connection with:

2085 (a) the opening of any new road, [street, alley,] shared use path, or  
 2086 sidewalk, [for]

2087 (b) the construction or repair of any bridge,

2088 (c) the relocation, straightening or widening of any road, street, alley,  
 2089 bikeway, or sidewalk,

2090 (d) the proper drainage of any such road, street, alley, bikeway or sidewalk,  
 2091 [for]

2092 (e) the building of any public building or structure, or [for]

2093 (f) any other [necessary] public transportation purpose.

2094 **49-46. Condemnation [upon failure of owner to agree to purchase-**  
 2095 **Authority of city; condemnation under general law].**

2096 If the [county shall be unable for any reason to] County cannot agree with the  
 2097 owner of any land, [the buildings or improvements thereon, or any interest therein,  
 2098 the use of which is] building, or improvement required for any [necessary] public  
 2099 purpose [or for the opening of any new road, street, alley or sidewalk, for  
 2100 construction or repair of any bridge, for the relocating, straightening or widening of  
 2101 any road, street, alley or sidewalk, the proper drainage thereof, for the building of any  
 2102 public building or structure, or for any other necessary public purpose,] listed in  
 2103 Section 49-45, [then] the [county] County may [proceed to] condemn the [same]  
 2104 land, building, or improvement, or any interest in them, for the use of the [county]  
 2105 County under [the provisions of the public general] any applicable State law [relative  
 2106 to] that authorizes condemnation by [corporations, municipal or otherwise] local  
 2107 governments.

2108 **[49-47. Same-County not required to accept award or judgment rendered.]**

2109 The [county shall] County need not [be required to] accept the award or  
 2110 judgment rendered in any proceeding under [the statute, referred to in the preceding  
 2111 section] this Section, but instead may abandon the project [upon payment of the] after  
 2112 paying any costs [thereof] required by law.

2113 **49-47, 49-48. Reserved.**

2114 **49-49. Procedure after construction work has been done [or completed].**

2115 [Whenever] If the County has built any road, highway, street, bridge, bikeway,  
 2116 sidewalk, curb, gutter or drainage ditch [shall be constructed in the county] on[,  
 2117 through or upon] any land [in the county the title to which or the right-of-way over  
 2118 which shall not have been first secured by the county prior to the construction of any  
 2119 such improvement] which the County did not own or have authority to use, [then] the  
 2120 [county is hereby authorized and empowered to proceed to] County may condemn  
 2121 [such] the land and any [and all] improvements [thereon] on it under [the provisions  
 2122 of] any applicable State law [relating to] which authorizes the condemnation of land

2123 for public purposes [as fully] as though the improvement [thereon] had not been  
 2124 [constructed prior to the institution of] built before condemnation proceedings began.

2125 **49-50. Optional method of condemnation of land for streets or roads.**

2126 As authorized by Section 40A of Article III of the Maryland Constitution [of  
 2127 Maryland], the County may acquire any land or interest in land required for a right-  
 2128 of-way for a County [roads or streets] road or street by using the following  
 2129 procedure:

2130 (a) When the County Council finds an immediate need to acquire [private  
 2131 property for right-of-way for County roads or streets] land or an interest  
 2132 in land, the Council by resolution must:

- 2133 (1) describe the property,  
 2134 (2) list the owner or owners as they appear on the County assessment  
 2135 records [of the County],  
 2136 (3) appoint a licensed real estate broker or a licensed real estate  
 2137 appraiser to estimate the property's fair market value,  
 2138 (4) direct the County Attorney to acquire the property or interest  
 2139 under this procedure, and  
 2140 (5) guarantee the payment of any amount above the estimated fair  
 2141 market value, later awarded by a jury.

2142 (b) (1) Promptly after being appointed, the broker or appraiser must  
 2143 estimate the fair market value of the property or interest and  
 2144 submit a written report to the County.

2145 (2) The County then may by petition, naming the owner or owners  
 2146 and all persons of record whose interest in the property would be  
 2147 taken, pay to the Circuit Court the amount estimated by the  
 2148 broker or appraiser to be the fair market value of the property,  
 2149 and record a copy of the resolution of taking [among] in the

2150 County land records [of the County]. A copy of the resolution  
 2151 must be attached to the petition. A copy of the petition and  
 2152 resolution must be served [upon] on each person named in the  
 2153 petition.

2154 (3) A copy of the petition and resolution must be filed with the  
 2155 Supervisor of Assessments, who must promptly adjust the tax  
 2156 assessment records.

2157 (4) The County may then immediately take possession of the  
 2158 property or interest described in the resolution without further  
 2159 notice to the property owner or other [persons] person of interest,  
 2160 and may proceed with the road or street project.

2161 (5) Payment into court of the amount estimated by the County's  
 2162 broker or appraiser to be the fair market value of the property or  
 2163 interest does not limit the amount that may be later awarded by a  
 2164 jury. The guarantee of the County to pay any further sum later  
 2165 awarded by a jury remains in effect until the final disposition of  
 2166 the proceeding.

2167 (c) The owner of [such] any property or interest taken [shall be entitled],  
 2168 upon written request to the Clerk of the Court, [to] must receive [such]  
 2169 the amount [as was] paid into the court[, provided such] if the owner  
 2170 agrees in writing filed with the Clerk to pay back to the County the  
 2171 difference between [such] the amount received and a final award made  
 2172 by a jury, if [such] the final award is less than the amount paid into  
 2173 court.

2174 (d) Upon payment of the required money into court [as aforesaid] under  
 2175 subsection (b)(2), the County [shall proceed to] must negotiate with [the  
 2176 owner of] the property [affected in an effort] owner to attempt to obtain

2177 by amicable negotiation [such] any right, title [and] or interest [of the  
 2178 owner's property as is] necessary for the road or street project [upon  
 2179 which is based the need to acquire such property]. If the County and the  
 2180 owner [of such property are unable to] cannot agree [upon] on a sum to  
 2181 be paid [for the property] after payment [of the money] into court [as  
 2182 aforesaid], [such] the owner may request the County to institute  
 2183 condemnation proceedings[, and upon such request the]. The County  
 2184 [shall] must, within [ninety (90)] 90 days [of such] after receiving a  
 2185 request, [institute such] begin condemnation proceedings [in accordance  
 2186 with the procedure established in] under [Article Real Property,] Section  
 2187 12-101 of the [Annotated Code] Real Property Article of the Maryland  
 2188 Code, [as amended; provided, that the] or any successor provision. The  
 2189 County on its own may. [institute such] also begin condemnation  
 2190 proceedings at any time.

2191 (e) The jury award [upon] on any property or interest taken under this  
 2192 [procedure shall] Section must be based [upon] on the value of the  
 2193 property [at the time of payment by] or interest when the County paid  
 2194 into the court.

2195 (f) The County need not accept the estimate of its broker or appraiser and,  
 2196 before paying any funds into court, may withdraw its petition by paying  
 2197 [the] any costs [thereof] required by law. In that case the County is not  
 2198 entitled to take possession of the property or interest. In withdrawing its  
 2199 petition, the County [has] does not [waived the] waive its right to  
 2200 [institute] begin a condemnation action or a new proceeding under this  
 2201 Section against the same property, or to buy the same property or  
 2202 interest by negotiation with the owner.

2203 (g) The procedure [established] in this Section [shall] does not apply if the  
 2204 property [actually] to be taken includes a building [or buildings].

2205 **Article [IV] 5.**

2206 **[Construction of] County Roads [by County] = Authority and Funding.**

2207 **49-51. Definitions.**

2208 As used in this Article:

2209 Construction[; The term "construction"] means construction [and] or  
 2210 reconstruction (but not maintenance), and includes grading, installation of drainage  
 2211 structures, paving, curbs and gutters, sidewalks, returns of curbs, sidewalk and  
 2212 driveway entrances, guard rails, retaining walls, sodding, and planting.

2213 Road[: The term "road"] includes any road, street, highway, avenue, lane,  
 2214 alley, shared use path, sidewalk, [and] viaduct, and any related storm drain and  
 2215 stormwater management facility.

2216 **49-52. Road construction to be authorized by [county executive] County**  
 2217 **Executive; [council] Council to assess benefits.**

2218 (a) [No road shall be constructed by the county except pursuant to a written  
 2219 order of the county executive] The County must not build any road  
 2220 unless County Executive has issued an order authorizing the  
 2221 construction [of such road]. [Whenever any such road construction in  
 2222 the county] After the Executive has [been so] authorized the road, the  
 2223 County Council may assess the cost of construction [shall be assessed  
 2224 by the county council] by resolution as a benefit to all property adjacent  
 2225 to the road's right-of-way [of such road] and specially benefited by [the]  
 2226 its construction [thereof; provided, that:] as provided in this Section.

2227 [(a)] (b) [Such cost of construction shall be assessed only to the extent that any  
 2228 road construction code of the county in force at the time] The law in

2229 effect when construction is authorized [provides for] must allow the  
 2230 assessment of [such] all or part of its cost [or any portion thereof];

2231 [(b)] (c) [No such] A property [shall] must not be assessed [in excess of] more  
 2232 than the amount by which [such] the property is specially benefited by  
 2233 [such] the construction[;].

2234 [(c)] (d) Property owned by the United States, the [state] State, or any  
 2235 [government] agency [thereof shall] of either must not be assessed. [for  
 2236 any portion of such cost or construction;]

2237 [(d)] For a service drive, primary residential road, arterial road, business  
 2238 district road or other road designation of higher traffic capacity, all costs  
 2239 of construction shall be assessed to adjoining properties; provided, that  
 2240 there is a rebuttable presumption of no benefit to any property which  
 2241 meets all of the following conditions:

2242 (1) The property is (i) zoned residential and is not developed or  
 2243 master planned for institutional, industrial or commercial use; or  
 2244 (ii) a residential condominium or cooperative unit;

2245 (2) The property abuts a county-maintained, paved roadway of two  
 2246 (2) lanes or greater capacity; and

2247 (3) The property is not zoned or master planned for zoning which  
 2248 would permit subdivision into two (2) or more residential lots or  
 2249 development for multiple-family use;]

2250 (e) [Assessments against properties for costs of construction or  
 2251 reconstruction of roads undertaken by the county may be waived within  
 2252 the boundaries of or as a part of] The Council may waive any  
 2253 assessment in an urban renewal [projects] project, community  
 2254 redevelopment [projects] project, [and] or neighborhood improvement  
 2255 [projects] project [approved in the capital improvements program for

2256 the purpose of eliminating blight and slums and preventing blight or  
 2257 deterioration of a neighborhood or designated area].

2258 **49-53. Public hearing [required prior to authorization of construction and**  
 2259 **assessment of benefits]; notice[; publication].**

2260 (a) Before any road construction [shall be] or assessment is authorized, the  
 2261 County Executive or a designee must hold a public hearing [thereon  
 2262 shall be held by the county executive or his designee]. Any [interested]  
 2263 person who would be subject to an assessment or otherwise affected by  
 2264 the location or construction of the road [shall be] is entitled to [appear  
 2265 and] be heard at [such] the hearing. Notice of [such] the hearing [shall]  
 2266 must be sent by certified or registered mail, at least [two (2)] 2 weeks  
 2267 before the scheduled date of the hearing, to the owners of [the] each  
 2268 property that would be subject to an assessment, [for the proposed  
 2269 construction] as listed in the records of the [department of finance]  
 2270 Department of Finance.

2271 (b) [All notices] Each notice issued [pursuant to] under this [section shall]  
 2272 Section must contain [the following]:

- 2273 (1) The time and place of the hearing;  
 2274 (2) The location of the construction which is the subject of the  
 2275 hearing;  
 2276 (3) The extent and kind of construction intended;  
 2277 (4) The type of materials to be used;  
 2278 (5) The estimated cost of construction; and  
 2279 (6) [Identification] The location of the real property that [there is  
 2280 reason to believe] will be benefited by the construction.

2281 (c) A summary of the notice provided for in this [section shall] Section  
 2282 must be published twice in a newspaper of general circulation in the

2283 County before the scheduled date of the hearing. [Such] The summary  
 2284 [shall include a statement indicating] must tell where a full copy of the  
 2285 [text] notice may be obtained.

2286 **49-54. Authorization of construction; recommendation of assessments to**  
 2287 **[council; contents] Council.**

2288 (a) If, after the hearing provided for in section 49-53, the [county executive  
 2289 shall find] County Executive finds that the public interest requires [that]  
 2290 all or part of any road construction project under consideration[, or any  
 2291 portion thereof,] to be carried out, [he shall] the Executive must [, by  
 2292 written order] authorize [such construction or portion thereof in  
 2293 conformity with the county road construction code in force at the time]  
 2294 the road to be built as required in this Chapter.

2295 (b) As soon as practicable after the [authorization of any] Executive  
 2296 authorizes the road [construction pursuant to] under this Section, and  
 2297 after the hearing held under Section 49-53, the [county executive shall]  
 2298 County Executive must forward to the [county council] County Council  
 2299 a written report recommending any proposed assessments based on the  
 2300 estimated cost of [such construction] building the road. [Such] The  
 2301 report [shall] must describe the work to be done and [shall] state, with  
 2302 particularity, what portion of the cost of [such] the construction, if any,  
 2303 [is recommended to] should be [borne] paid by the adjacent properties  
 2304 and what portion, if any, of [such] the cost [is recommended to] should  
 2305 be [borne] paid by the [county in accordance with the provisions of the  
 2306 road construction code in force at the time] County under this Chapter.

2307 (c) [Such] The recommendations [shall] must be based [upon] on the actual  
 2308 costs of [publication of] publishing notices, [the conduct of] conducting  
 2309 hearings, advertising for bids, and engineering, and the anticipated costs

2310 of financing to be incurred [prior to the passage of] before the Council  
 2311 adopts the assessment resolution [by the council]. [Such  
 2312 recommendations for the assessment of costs shall] Each cost  
 2313 assessment must be computed on the basis of linear frontage of [such]  
 2314 adjacent properties, except as otherwise provided in this [article and in  
 2315 the county road construction code in effect at the time] Chapter. The  
 2316 report [shall] must also [contain an] estimate [of] the dollar amount [in  
 2317 dollars] of the [portion of] cost share to be [borne] paid by [such]  
 2318 adjacent properties.

2319 **49-55. Assessment of costs by [county council] County Council; appeals.**

2320 (a) Within [two hundred seventy (270)] 270 days [of acceptance of  
 2321 completion of] after the County accepts any road [construction]  
 2322 authorized and subject to assessments [pursuant to section] under  
 2323 Section 49-54, the [county executive shall] County Executive must  
 2324 forward [his] final recommendations for assessments to the [council]  
 2325 Council. [Any] The Executive must include any adjustment to [prior]  
 2326 previous estimates [of assessments necessitated by] resulting from the  
 2327 actual costs of the project, including financing[, shall be included in the  
 2328 executive's final recommendations].

2329 (b) Within [ninety (90)] 90 days after [receipt of] receiving these  
 2330 recommendations, the [council shall] Council must approve or modify  
 2331 the recommended assessments and [shall], by resolution, assess the  
 2332 costs of the road project against the adjacent properties, [pursuant to the  
 2333 county road construction code in force at the time and] subject to the  
 2334 [limitations] limits of [section] Section 49-52. [Such assessments shall]  
 2335 Each assessment must be computed on the basis of the linear frontage of  
 2336 [such properties] each property, except as otherwise provided in

2337 [section] Section 49-56 [and in the road construction code]. [Such]  
 2338 Each assessment [shall be] becomes final [upon adoption of] when the  
 2339 Council adopts the resolution.]; provided, that any]

2340 (c) Any person aggrieved by [such] an assessment may appeal, within  
 2341 [thirty (30)] 30 days after [the date of mailing of] the notice [thereof] is  
 2342 mailed, to the [circuit court] Circuit Court for the [county] County. Any  
 2343 party [to the proceedings] may appeal [from the] a decision of the  
 2344 [circuit court] Circuit Court to the [court of special appeals] Court of  
 2345 Special Appeals.

2346 **49-56. Assessment of corner lots.**

2347 [In all cases where] If the property to be assessed [for construction] is located  
 2348 at the intersection of [two (2)] 2 or more streets [and is what is known as]  
 2349 (hereinafter, a corner lot), the linear frontage of [such] each corner lot [to be]  
 2350 assessed in connection with the construction of each adjacent street [adjacent thereto  
 2351 shall] must be reduced to one-half of the total frontage of [such] that lot [upon] on the  
 2352 street [which it is proposed to construct] to be built, but any such reduction [shall]  
 2353 must not exceed [fifty (50)] 50 feet on any one [(1)] street. The portion of the cost of  
 2354 the construction which would otherwise have been assessed to [such] a corner lot  
 2355 [shall] must be added to the overall cost assessed to the remaining assessable frontage  
 2356 of the whole project, [or may be paid for in whole or in] unless the Executive  
 2357 authorizes the County to pay all or part [by the county].

2358 **49-57. Roads partly in unincorporated area and partly in city[,], or town[,]**  
 2359 **etc.]**

2360 (a) Building roads.

2361 (1) [Whenever] If a road, bridge, storm drain, sidewalk, shared use  
 2362 path, transitway, or other transportation facility [lies] is located  
 2363 partly [within] in the unincorporated area of the county and partly

2364 [within a city, town, village,] in a municipality or special taxing  
 2365 area [of the county] that [has jurisdiction over the construction or  
 2366 maintenance of] is authorized by law to build or maintain that  
 2367 part of the [road] facility that is located in the [incorporated area]  
 2368 municipality, either the County or the municipality or special  
 2369 taxing district may improve the entire [road may be constructed  
 2370 by the county or by the city, town, village, or special taxing area]  
 2371 facility according to [the] applicable County laws[, ordinances,  
 2372 rules, and regulations for construction of county roads] or [of  
 2373 “public ways”] any law or regulation that applies in the [city,  
 2374 town, village,] municipality or special taxing area, respectively,  
 2375 as if the [road] facility were [wholly within] completely located  
 2376 in the unincorporated area of the county or [wholly within] in the  
 2377 [city, town, village,] municipality or special taxing area.

2378 (2) The [county executive] County Executive and the governing  
 2379 body of the [city, town, village,] municipality or special taxing  
 2380 area must mutually consent to construct or improve [such] the  
 2381 [road] facility [or public way], which consent may be granted  
 2382 without regard to the laws [and ordinances] of the [county]  
 2383 County or of the [city, town, village,] municipality or special  
 2384 taxing area regarding construction of roads [or public ways] and  
 2385 assessment for the construction.

2386 (3) The County may build or improve a road, bridge, storm drain,  
 2387 sidewalk, shared use path, transitway, or other transportation  
 2388 facility which it is authorized by law to construct and maintain,  
 2389 even if the facility is located partly or entirely in a municipality or  
 2390 special taxing area.

- 2391 (b) Assessing costs.
- 2392 (1) [Whenever] If the [county] County or any [city, town, village]
- 2393 municipality or special taxing area [in the county shall authorize]
- 2394 authorized the construction of a road [or public way], [and shall
- 2395 obtain] obtains the consent of the other [as provided in] under
- 2396 subsection (a) [of this section], [and] assesses [the] its cost
- 2397 [thereof] against abutting property on the basis of benefit to
- 2398 [such] the abutting property, and [such] the assessment is made in
- 2399 accordance with the laws[, ordinances, rules] and regulations of
- 2400 the [county] County or [city, town, village] municipality or
- 2401 special taxing area levying [such] the assessment, any property
- 2402 which abuts [such] the road or public way but which [lies] is
- 2403 located in whole or in part in [such] the other[, whether county or
- 2404 city, town, village or special taxing area] jurisdiction, may be
- 2405 assessed for its proportionate share of the cost of construction in
- 2406 the same manner as if the property [lay wholly within] were
- 2407 located only in the county or [city, town, village] municipality or
- 2408 special taxing area levying [such] the assessment, as the case may
- 2409 be. [; provided however, that upon any]
- 2410 (2) Any party upon whom [such] an assessment may be levied under
- 2411 this subsection may [protest or] appeal [such] the assessment, in
- 2412 the same manner under the law of the [county, or city, town,
- 2413 village or special taxing area] jurisdiction levying [such] the
- 2414 assessment, as [may be] any other party [otherwise] entitled to
- 2415 [protest or] appeal [under [such] its law. [; provided; however,
- 2416 that the city, town, village]

2417 (3) A municipality or special taxing area may, in its discretion, pay  
 2418 all or part of the costs [so] assessed by the County against [the  
 2419 properties within its jurisdiction] any property located in it.

2420 (c) State roads. Nothing in this section [shall be construed to affect state  
 2421 roads] affects any State road, except to the extent that the [county]  
 2422 County participates in [payment of the cost of] paying any construction  
 2423 [pursuant to] cost under an agreement with the [state roads commission]  
 2424 State Highway Administration or any successor agency.

2425 **49-58. Payment of assessments; due date; interest and/or] penalties;**  
 2426 **[deferral of] deferring payments.**

2427 (a) (1) [Assessments shall be] Any assessment under this Article is due  
 2428 and payable [upon adoption of] 30 days after the Council adopts  
 2429 the resolution levying the assessment. [and until] Until the  
 2430 assessment is paid, [shall be] the Director of Finance may attach  
 2431 a lien on the [real] property [upon] on which the assessment was  
 2432 levied.

2433 (2) The [county council] Council may provide in the resolution that  
 2434 [such] assessments may be paid in full at any time or in up to 20  
 2435 equal annual installments [not to exceed twenty (20)]. [All  
 2436 assessments shall] Each assessment must bear interest on the  
 2437 unpaid balance from the date [of such levy] the Council adopts  
 2438 the resolution at [a rate of interest per annum, which shall be] the  
 2439 interest rate paid by the [county] County on its bonds used [for  
 2440 the purpose of capital] to finance construction of the road, plus  
 2441 one [(1)] percent.

2442 (3) The resolution [shall] must provide that all or any portion of the  
 2443 assessment may be paid without interest within [ninety (90)] 90

2444 days [from the date of] after the resolution levying the assessment  
 2445 is adopted, or in equal annual installments [commencing] starting  
 2446 on the July 1 [next following thirty (30)] at least 30 days after the  
 2447 levy of the assessment. [, and such payments shall] Each payment  
 2448 must include interest on the unpaid balance. Any annual  
 2449 installment, together with the interest [thereon] on it, not paid on  
 2450 or before the September 30 [following] after its due date, [shall  
 2451 be] is overdue and [in arrears and shall] must be charged  
 2452 additional interest and[/or] penalty at the [rate(s)] rate prescribed  
 2453 by law for overdue [and in arrears ordinary] taxes on real  
 2454 property for the full taxable year.

2455 (b) Notwithstanding the provisions of this [section] Section, the [county  
 2456 council] Council may by resolution permit a taxpayer to defer the  
 2457 payment of assessments for a period not to exceed [five (5)] 5 years,  
 2458 subject to the following conditions:

2459 (1) The payment deferral [shall] must be provided only on  
 2460 assessments connected with property which has been subject to  
 2461 an increased [county] County property tax assessment resulting  
 2462 directly from a government-initiated change in the zoning  
 2463 classification of the property to a higher intensity use. A  
 2464 government-initiated change in the zoning classification of  
 2465 property is a change approved by the District Council or the  
 2466 Planning Board.

2467 (2) The property connected with the assessment has been and [shall]  
 2468 must be actually occupied by the taxpayer for residential  
 2469 purposes. [and any] Any change in [such] use during the period  
 2470 of payment deferral [shall operate to terminate] automatically

- 2471 ends the deferral. [, the] Any deferred assessment and  
 2472 accumulated interest [thereon] on it [shall] is then [become]  
 2473 immediately due and payable.
- 2474 (3) The payment deferral [shall terminate] ends immediately [upon  
 2475 transfer of the property by] when the owner of record listed on  
 2476 the [assessment and] tax records [at the time] when the property  
 2477 was rezoned [under circumstances described above, the] transfers  
 2478 the property. Any deferred assessment and accumulated interest  
 2479 [thereon] on it [shall] is then [become] immediately due and  
 2480 payable.
- 2481 (4) The owner [has executed] must execute an agreement with the  
 2482 [county agreeing] County to pay the balance of unpaid deferred  
 2483 assessments and accumulated interest [thereon] on them  
 2484 immediately [upon the transfer of ownership by said] if the  
 2485 owner[, or upon the failure of] transfers ownership or does not  
 2486 comply with any other condition [specified herein], or [upon the  
 2487 expiration of] when the specified deferral period expires[,  
 2488 whichever occurs first].
- 2489 (5) Interest on the unpaid balance of any deferred assessments [shall]  
 2490 must accrue from the date of the deferral resolution at the rate  
 2491 specified in [section] Section 49-58.
- 2492 (6) A first lien [shall] must attach to the property for all deferred  
 2493 assessments and accumulated interest [thereon] on them.
- 2494 [(7) The deferred payments of assessments authorized hereunder may  
 2495 apply to any assessments levied after July 1, 1975, where the  
 2496 property owner became eligible for the deferral of payments  
 2497 under the conditions specified herein.]

2498            [(c) For purposes of this section, a government-initiated change in the  
 2499 zoning classification of property shall be a change accomplished  
 2500 through a filing and approval by the district council or the Maryland-  
 2501 National Capital Park and Planning Commission.]

2502 **49-59.        [Collection of] Collecting assessments; default in [payment of]  
 2503 paying installments.**

2504            (a) [Assessments made hereunder shall] Any assessment under this Article  
 2505 must be collected in the [manner in which ordinary taxes on] same way  
 2506 as real property taxes are [now or hereafter may be] collected under [the  
 2507 provision of the general and local laws of the state and the county] State  
 2508 and County laws. Each annual installment due may be included on the  
 2509 County tax bill, [issued by the county] or [it may be] billed separately,  
 2510 as [determined by] the [director of finance] Director of Finance orders.

2511            (b) [Upon default in the payment of] If any person does not pay any annual  
 2512 installment, including any interest and penalty due, the Director of  
 2513 Finance may sell the property against which [any such] the assessment  
 2514 has been made [shall be sold] at tax sale for the unpaid balance due on  
 2515 the assessment, including [the] any interest [and/]or penalty due,  
 2516 [thereon] in the same manner as real property is sold for nonpayment of  
 2517 [ordinary] taxes, together with all other charges due [thereon], if any.

2518 **49-60.        [Correction of] Correcting errors in assessments.**

2519            (a) [Whenever through error, inadvertence or oversight,] If any property  
 2520 subject to assessment [has] was not [been] properly assessed, or [such]  
 2521 the assessment erroneously describes the property or is made in a wrong  
 2522 name or in an erroneous amount, or [where service upon] if the property  
 2523 owner [has] was not [been made] properly notified, the [council]  
 2524 Council may, [upon the recommendation of the county executive] if the

2525 County Executive so recommends or [upon its own discovery of such  
 2526 error, inadvertence or oversight] on its own, correct the assessment by  
 2527 [amendment of] amending the resolution.

2528 (b) [making the same] The Council may correct an error without further  
 2529 notice to the affected property owner [affected thereby; provided, that  
 2530 such property] if the owner had notice of the hearing conducted  
 2531 [pursuant to section] under Section 49-53 and the error[, inadvertence or  
 2532 oversight] did not occur [prior to] before the [date of such] hearing was  
 2533 held and was not contained in any notice of the hearing.

2534 (c) [thereof, but if such] If the error[, inadvertence or oversight] occurred  
 2535 [prior to such] before the hearing or was contained in any notice thereof,  
 2536 [it shall] the error must not be corrected [unless] until [the] any affected  
 2537 property [owners affected by such correction are] owner is given  
 2538 adequate notice and an opportunity to be heard.

2539 **49-61. Borrowing and certificates of indebtedness.**

2540 The [county is hereby authorized] County may, by resolution of the [council]  
 2541 Council, [to] borrow [such sums] from time to time [upon] on its faith and credit [as  
 2542 may be] any funds needed [for financing] to finance construction authorized by this  
 2543 [article] Article, and [to] may issue its negotiable certificates of indebtedness  
 2544 [therefore]. [Nothing in this article contained shall prevent or limit the issuance by  
 2545 the county of bonds or other evidences of indebtedness for road or any other purposes  
 2546 pursuant to authority of any other laws heretofore or hereafter enacted.]

2547 **Article [V] 6.**

2548 **Abandonment and Closing of [Roads and Drainage] Rights-of-Way.**

2549 **49-62. Abandonment authority; scope of [article] Article; procedures.**

2550 (a) *Authority.* The County Council [may], by adopting a resolution, may  
 2551 close to public use or abandon the County's right to use any right-of-

2552 way. As used in this Article, *right-of-way* means any road, street, alley,  
 2553 crosswalk, pedestrian walkway, shared use path, water main, sanitary  
 2554 sewer, storm sewer, or storm drainage right-of-way used at any time by  
 2555 the public, including use by pedestrians and bicyclists. This Article  
 2556 applies to all rights-of-way except State road rights-of-way. This  
 2557 Article does not apply to any temporary closure required by a  
 2558 construction traffic control plan if the closure does not last longer than 6  
 2559 months. Before the Council adopts a resolution under this Article, the  
 2560 procedures in this Article must be followed.

2561 (b) *Application*. Any person or government agency may file an application  
 2562 with the Department of Public Works and Transportation to close or  
 2563 abandon any right-of-way. In this Article, unless the context clearly  
 2564 indicates otherwise, ["*Department*"] refers to the Department of Public  
 2565 Works and Transportation.

2566 (c) *Fee*. Each applicant, except a government agency, must pay with the  
 2567 application a filing fee set by regulation under method (3) to defray the  
 2568 cost of processing the application and holding a hearing.

2569 (d) *Notice to property owners*. After receiving an application under this  
 2570 Article, the Department must promptly notify by certified mail each  
 2571 property owner listed in the County assessment records whose property  
 2572 abuts the right-of-way proposed to be closed or abandoned. However,  
 2573 the [failure of] fact that any property owner [to] did not receive a notice  
 2574 under this Section does not invalidate an otherwise valid closing or  
 2575 abandonment.

2576 (e) *Notice to public*. The Department must prominently post a notice of the  
 2577 application in or adjacent to the right-of-way to be closed or abandoned.  
 2578 The Department also must publish notice of the application for 2

2579 successive weeks in a newspaper of general circulation in the County.  
 2580 This notice, and those sent under subsection (d), must inform recipients  
 2581 of the opportunity for a hearing and the date a hearing will be held.

2582 (f) *Hearing.* The Executive or the Executive's designee must hold a  
 2583 hearing on the application not earlier than 30 days after notice is mailed  
 2584 under subsection (d).

2585 (g) *Executive's report; comments of government agencies and utilities.*  
 2586 After the hearing held under this Section, the County Executive must  
 2587 forward to the County Council the application, [and] a report based  
 2588 [upon] on the record of the proceedings, and the Executive's  
 2589 recommendation on the proposed abandonment or closing. The report  
 2590 must state whether the government agencies [or governmental bodies]  
 2591 and utilities listed in [this] subsection (h) have [consented to] endorsed  
 2592 the proposal and the conditions, if any, of each agency's or  
 2593 [governmental body's consent, if any] utility's endorsement. The  
 2594 [County] Executive must not forward the report or recommendation  
 2595 until the [County] Executive receives [recommendations] a response  
 2596 from [the agencies] each agency or [governmental bodies] other party.  
 2597 If [the] an agency or [governmental body] other party does not [file its  
 2598 recommendation] respond within 60 days [from the date of the  
 2599 application] after notice is first published under subsection (e), the  
 2600 County Executive must presume that the agency or [governmental body  
 2601 consents to] other party does not oppose the proposal.

2602 (h) The government agencies and other parties from which the Executive  
 2603 must solicit a response are:

2604 (1) [The Director of] the Department of Public Works and  
 2605 Transportation;

- 2606 (2) [The] the Maryland-National Capital Park and Planning  
 2607 Commission[, if any part of the property is in the Maryland-  
 2608 Washington Regional District in the County];
- 2609 (3) [The] the Washington Suburban Sanitary Commission, if any part  
 2610 of the [property] right-of-way is located in the Washington  
 2611 Suburban Sanitary District;
- 2612 (4) [All] each public utility [companies] authorized by the Public  
 2613 Service Commission to operate [within] in the area and which  
 2614 [have] has any overhead or underground facilities in the vicinity;
- 2615 (5) [The] the governing body of each incorporated [city, town]  
 2616 municipality or special taxing area in which any of the [property  
 2617 may be] right-of-way is located;
- 2618 (6) The [department] Department of [police] Police; [and]
- 2619 (7) [The Department of] the County Fire and Rescue [Services]  
 2620 Service[.] and;
- 2621 (8) Any grantee of a franchise under Article 2, if the franchise  
 2622 authorizes the grantee to install or use any facility in, over, or  
 2623 under the affected right-of-way.

2624 **49-63. Decision of [council] the Council.**

- 2625 (a) The [decision of the] Council must [be based on] consider the record of  
 2626 the proceedings and the report and recommendations of the County  
 2627 Executive, including [the] any recommendations of the government  
 2628 agencies and [utilities referred to] other parties listed in Section 49-  
 2629 62(h), and any other relevant and material information [received by] the  
 2630 Council receives from any person [under subsection (b)].
- 2631 [(b) A Councilmember or Council staff member may visit the site of a right-  
 2632 of-way that is proposed to be closed or abandoned. The

2633 Councilmember or staff member must place on the record any  
 2634 information received at or resulting from the visit which may affect a  
 2635 Councilmember's decision. The Council may reopen the record at any  
 2636 time before final action to receive information about a site visit or other  
 2637 relevant materials. If the Council reopens the record under this  
 2638 subsection, the Council must notify each party and give that party a  
 2639 reasonable opportunity to respond to any new information.]

2640 [(c) At any time before final action by the Council, any person who or  
 2641 association which participated in person or in writing or by counsel at  
 2642 the hearing may request, in writing, an opportunity to present oral  
 2643 argument before the Council. The Council may, in its discretion, grant  
 2644 or deny a request for oral argument. If the Council grants the request,  
 2645 the Council must notify all parties to the proceedings and offer each  
 2646 party an opportunity to participate in the oral argument, which must be  
 2647 limited to information contained in the original hearing record or made  
 2648 available under subsection (b).]

2649 [(d)] (b) The Council may at any time remand an application to the Executive  
 2650 or the Executive's designee to reopen the record or consider new  
 2651 information.

2652 [(e)] (c) A right-of-way may be abandoned or closed if the Council by  
 2653 resolution finds that [the record indicates by a preponderance of the  
 2654 evidence that]:

- 2655 (1) the right-of-way is no longer necessary for present public use or  
 2656 anticipated public use in the foreseeable future, or  
 2657 (2) the abandonment or closing is necessary to protect the health,  
 2658 safety and welfare of the residents [in the neighborhood of] near

2659 the right-of-way to be abandoned or closed. In assessing health,  
 2660 safety, and welfare issues, the Council may consider:

2661 (A) [the master] any adopted land use plan applicable to the  
 2662 neighborhood;

2663 (B) safe and efficient pedestrian and vehicular traffic patterns  
 2664 and flows, together with alternatives, in the immediate  
 2665 neighborhood, for [both] local and through traffic; and

2666 (C) changes in fact and circumstances since the original  
 2667 dedication of the right-of-way.

2668 [(f)] (d) A right-of-way which is the sole means of access to any property must  
 2669 not be abandoned or closed.

2670 **49-64. Withdrawal of application.**

2671 (a) At any time [prior to] before the Council takes final action [by the  
 2672 council] on the application, the applicant may request in writing that the  
 2673 application be withdrawn.

2674 (b) [Such] The request [shall] must be made to the [county executive in the  
 2675 event] County Executive if the [executive] Executive has not [yet]  
 2676 forwarded the application to the [council] Council. If the Executive has  
 2677 forwarded the application [has been forwarded] to the [council] Council,  
 2678 the request [for withdrawal shall] must be made to the [council]  
 2679 Council.

2680 (c) [In the event] If the request for withdrawal is [made prior to the  
 2681 advertisement of] filed before the public hearing is advertised, the  
 2682 County must refund the filing fee [required hereunder], less  
 2683 administrative expenses, [shall be refunded by the county] to the  
 2684 applicant.

2685 **49-65. [Records] Notice to Planning Board; filing subdivision plat.**

- 2686 (a) Not less than [thirty (30) days] 30 nor more than [sixty (60)] 60 days  
 2687 [following] after the [adoption of] Council adopts the resolution [of the  
 2688 council providing for] to approve an abandonment or closing [pursuant  
 2689 to the provisions of this section], the [county attorney shall] Council  
 2690 Clerk must notify the [Montgomery County] Planning Board, the  
 2691 Directors of Permitting Services and Public Works and Transportation,  
 2692 and the County Attorney that the Council has authorized the  
 2693 abandonment or closing. [is authorized by the council; and the county  
 2694 attorney shall]
- 2695 (b) The Director of Permitting Services, after receiving a copy of the  
 2696 Council resolution, must sign, on behalf of the [county] County, a plat  
 2697 of subdivision prepared by the [petitioner] applicant, which the Planning  
 2698 Board has [been] approved for recording, [by the planning board  
 2699 providing for such] approving the abandonment or closing. [; or when]
- 2700 (c) If the filing of a subdivision plat is not appropriate, the [county attorney  
 2701 shall] County Attorney must cause to be recorded [among] in the  
 2702 County land records [of the county, in due form for recording,] the  
 2703 Council resolution [showing such] which approved the abandonment or  
 2704 closing.
- 2705 (d) Any abandonment or road closure approved after July 1, 2007, is  
 2706 automatically revoked by operation of law if each condition specified in  
 2707 the approval resolution, including any later amendment to that  
 2708 resolution, has not been completed within 5 years after the Council  
 2709 approved the resolution or amended the resolution to insert that  
 2710 condition.
- 2711 **49-66. Appeal from action of [council] the Council.**

2712 The action of the [council] Council on any application for abandonment or  
 2713 closing [shall be] is final, subject to any Council procedure for reconsideration that  
 2714 would otherwise apply. [; except, that within thirty (30) days after the date action is  
 2715 taken by the council, any person] Any aggrieved [thereby] person may appeal the  
 2716 action of the Council approving or denying an abandonment or closing to the [circuit  
 2717 court] Circuit Court within 30 days after the Council takes the action.

2718 **49-67. Notice of closure.**

2719 [Prior to] Before closing any [road or] right-of-way [pursuant to action by the  
 2720 council] after Council approval under this [article] Article, the [county executive  
 2721 shall] Director of Public Works and Transportation must cause to be posted  
 2722 prominently in the area of the [road or] right-of-way [to be closed], for [a period of]  
 2723 at least [fifteen (15)] 15 days [immediately following adoption by] after the [council  
 2724 of the resolution of closure] Council action, a notice [that such road or] listing the  
 2725 date when the right-of-way [shall] will be closed [and the date on which closing shall  
 2726 take place].

2727 **[49-67A] 49-68. [Abandonments] Abandonment of previously unused [road,**  
 2728 **drainage and other] rights-of-way.**

2729 (a) [When] If any [road, alley, crosswalk, pedestrian walkway, water main,  
 2730 sanitary sewer, storm sewer, or storm drainage] right-of-way, except a  
 2731 right-of-way located entirely in a municipality which has independent  
 2732 land use authority, has not been in public use, [an] one or more abutting  
 2733 [owner or] property owners may petition the Planning Board [for  
 2734 abandonment of] to abandon the [land] right-of-way. The petition must  
 2735 take the form of a preliminary plat for the subdivision of land, and must  
 2736 state the reason for the [request] proposed abandonment and show any  
 2737 proposed relocation or realignment of the right-of-way, where  
 2738 applicable.

- 2739 (b) The petitioner must notify:
- 2740 (1) [all persons having] each person with a recorded financial interest
- 2741 in land abutting the right-of-way;
- 2742 (2) the Department of Public Works and Transportation;
- 2743 (3) the [Department of] County Fire and Rescue [Services] Service;
- 2744 (4) the [Department of] Police Department;
- 2745 (5) the Washington Suburban Sanitary Commission, when
- 2746 applicable;
- 2747 (6) [all] each public utility [companies] operating [within] in the
- 2748 area; [and]
- 2749 (7) the governing body of each incorporated [city, town]
- 2750 municipality or special taxing area which adjoins the [property]
- 2751 right-of-way sought to be abandoned;[.] and;
- 2752 (8) Any grantee of a franchise under Article 2, if the franchise
- 2753 authorizes the grantee to install or use any facility in, over, or
- 2754 under the affected right-of-way.
- 2755 [(b)] (c) The Planning Board must [obtain] solicit the comments of [these
- 2756 agencies, utility companies, or governmental bodies] each notice
- 2757 recipient, and then promptly determine whether:
- 2758 (1) the right-of-way previously was improved or used for the
- 2759 purposes for which it was intended or dedicated; and
- 2760 (2) the right-of-way is necessary for anticipated public use.
- 2761 (d) If a recipient of notice under subsection (b) does not respond within 60
- 2762 days after the notice is sent, the Planning Board must presume that the
- 2763 recipient does not oppose the proposal.
- 2764 [(c)] (e) If the Planning Board finds that the right-of-way is not necessary for
- 2765 anticipated future public use or that an alternative alignment or location

2766 will not adversely affect the public interest, the Board may authorize [by  
 2767 resolution that] the right-of-way [may] to be abandoned by  
 2768 incorporating the abandoned land into an amended plat of subdivision.  
 2769 The amended subdivision plat must [be approved in accordance with  
 2770 this Article, including] require the dedication of any land [required]  
 2771 needed for rights-of-way, easements, and other public uses.

2772 **[49-68. Applicability of article.**

2773 This article shall apply to all public roads and storm drainage rights-of-way,  
 2774 except state roads and storm drainage rights-of-way and that portion of roads and  
 2775 rights-of-way.]

2776 **[49-68A. Reserved.]**

2777 **Article [VI] 7. Freeways and [Expressways] Controlled Major Highways.**

2778 **49-69. [Authority to establish, etc.; evidence of freeway or expressway;  
 2779 public hearing; freeways and expressways defined] Reserved.**

2780 [(a) *Generally.* The county may lay out, establish and construct any existing  
 2781 or proposed county road as a freeway or expressway. The county  
 2782 executive may, by written regulation, designate that a proposed highway  
 2783 is to be constructed as a freeway or expressway. Such regulation shall  
 2784 be conclusive evidence that the road, when constructed, is a freeway or  
 2785 expressway with all the characteristics and incidents prescribed by this  
 2786 and the following five (5) sections.]

2787 [(b) *Public hearing.* In the event the county proposes to construct or  
 2788 designate a road as a freeway or expressway and such road is not shown  
 2789 as such on a duly adopted master plan of the Maryland-National Capital  
 2790 Park and Planning Commission, the county shall hold a public hearing  
 2791 on such proposal and shall forward the proposal to the Maryland-  
 2792 National Capital Park and Planning Commission for its

2793 recommendations. It shall cause to be advertised in a newspaper of  
 2794 general publication thirty (30) days prior to the date set for a public  
 2795 hearing, the time and place of such hearing and a general description of  
 2796 the road or area to be designated as a freeway or expressway.]

2797 [(c) *Freeway.* A freeway is an expressway with full control of access. A  
 2798 freeway is distinguished from all other expressways by the degree of  
 2799 separation of crossroads and the manner of providing access. A freeway  
 2800 has no cross traffic and points of access are suitably spaced only at  
 2801 crossroads which are separated in grade or connected by right-turns only  
 2802 and generally located and designed to provide safe and efficient access  
 2803 appropriate for the traffic.]

2804 [(d) *Expressway.* An expressway is a divided arterial highway for through  
 2805 traffic with full or partial control of access and generally with grade  
 2806 separations at intersections. The distinction between an expressway and  
 2807 the normal street or highway is the distance between crossings and  
 2808 access connections. Whereas a major street may include numerous  
 2809 private driveways, an expressway has none.]

2810 **49-70. [Authority to designate existing and new] Designating means of**  
 2811 **[ingress and egress] access to certain highways.**

2812 (a) [The county may by resolution designate as a freeway or expressway all  
 2813 or any portion of any county road theretofore laid out, adopted,  
 2814 established and constructed, subject to the applicable provisions of the  
 2815 preceding section.] A Freeway and Controlled Major Highway are  
 2816 defined in Section 49-31.

2817 (b) [When] If any existing [county] County road is [designated] classified  
 2818 as a [freeway or expressway, then] Freeway or Controlled Major  
 2819 Highway:

2820 (1) The [county] Director of Public Works and Transportation may,  
 2821 by agreement or condemnation, restrict or limit the right of any  
 2822 owner of land abutting the [freeway or expressway] Freeway or  
 2823 Controlled Major Highway to lay out or construct any new means  
 2824 of [ingress or egress] access to, from or across [such] the abutting  
 2825 land to or from the [freeway or expressway] Freeway or  
 2826 Controlled Major Highway or to enlarge or extend any existing  
 2827 means of [ingress and egress, and the county] access. The  
 2828 Director may, from time to time, designate points [at which]  
 2829 where access [will be] is permitted, or permit changes in existing  
 2830 means of access, consistent with any applicable master plan,  
 2831 [upon such] on specified terms and conditions, [as they may  
 2832 specify; and]

2833 (2) The [county] Director may close any existing means of [ingress  
 2834 or egress] access to, from, or across abutting land to or from the  
 2835 [freeway or expressway] Freeway or Controlled Major Highway  
 2836 by agreement or condemnation, consistent with any applicable  
 2837 master plan.

2838 **49-71. [Method and procedure of acquiring] Acquiring property for**  
 2839 **[establishment or construction of freeways or expressways] Freeways or**  
 2840 **Controlled Major Highways[, feeder roads, etc].**

2841 [For the construction of] To build any [freeway or expressway] Freeway or  
 2842 Controlled Major Highway or [the establishment of] rebuild any portion of any  
 2843 existing [county] road as a [freeway or expressway] Freeway or Controlled Major  
 2844 Highway, or for any service or feeder [roads] road in connection with a [freeway or  
 2845 expressway] Freeway or Controlled Major Highway, the [county] County may  
 2846 acquire any real property or any interest in real property [in the same manner and] by

2847 the same procedure as [such] property may [now or hereafter] be acquired for road  
2848 purposes.

2849 **49-72. [Regulation] Control of use and access.**

2850 When any road has been constructed or designated as a [freeway or  
2851 expressway] Freeway or Controlled Major Highway, the [county] Director:

2852 (a) [May regulate,] may restrict or prohibit access to [such freeway or  
2853 expressway] the Freeway or Controlled Major Highway from any  
2854 existing highway, road, or street, or from any new highway, road, or  
2855 street, [; provided, however, that] if reasonable access to [such] the  
2856 freeway or expressway from any existing or [any] new highway, road,  
2857 or street[, shall be provided; and] is maintained;

2858 (b) [May regulate] may control, restrict, or prohibit the use of [such freeway  
2859 or expressway] the Freeway or Controlled Major Highway by various  
2860 classes of vehicles or traffic [provided] if an alternate route is provided  
2861 for [such] restricted or prohibited classes of vehicles or traffic; and

2862 (c) [May] may maintain, discontinue, abandon, or close, and exercise all  
2863 other powers with respect to [such freeways or expressways] Freeways  
2864 or Controlled Major Highways to the same extent and in the same  
2865 manner as [in the case of] other roads.

2866 **49-73. Access to [freeway or expressway] Freeway or Controlled Major**  
2867 **Highway where it divides property [held] under one ownership.**

2868 [Whenever in the establishment of a freeway or expressway,] If real property  
2869 held [under] by one [(1) ownership] owner is severed by [the freeway or expressway]  
2870 a Freeway or Controlled Major Highway, [then] the [county] Director [, in its  
2871 discretion,] may provide for access across the [freeway or expressway] Freeway or  
2872 Controlled Major Highway from one [(1)] such tract to the other, either at grade or  
2873 below or above grade, upon such conditions as [it prescribes] prescribed. [No such]

2874 Any connecting road or roads [shall] must not be used for or in connection with the  
 2875 conduct of any roadside business or enterprise. If [such tracts at any time cease to  
 2876 be] the affected land is no longer held under one [(1)] ownership, the [county]  
 2877 Department may [terminate and] discontinue [such] any access road. [or roads;  
 2878 provided, however, that in]

2879 In acquiring [lands, property, rights-of-way, franchises, easements and other]  
 2880 property for [the purposes described] any purpose listed in the [four (4)] three  
 2881 preceding sections, the [county shall] Director must fully [and properly acquaint]  
 2882 inform the owners [thereof with] of the use and restrictions of [such] the property [as  
 2883 outlined therein].

2884 **49-74. Right of [ingress or egress] access.**

2885 When a road is constructed as a [freeway or expressway] Freeway or  
 2886 Controlled Major Highway, [no] an owner of land abutting the road or other person  
 2887 [shall] must not have any right of [ingress or egress] access to, from, or across [such]  
 2888 any abutting land to or from the [freeway or expressway] Freeway or Controlled  
 2889 Major Highway. [The county in its discretion, at] At the time of the construction of  
 2890 the [freeway or expressway] Freeway or Controlled Major Highway or thereafter, the  
 2891 Director may designate points at which access will be permitted, [upon such] on  
 2892 terms and conditions as [it] the Director may specify from time to time.

2893 **49-75. [Adoption of regulations] Reserved.**

2894 [The county executive is authorized to adopt, under method (2) of section 1A-  
 2895 15 of this Code, necessary regulations concerning freeways or expressways; such  
 2896 may include, but not be limited to, further provisions for the establishment,  
 2897 construction, use and access to freeways or expressways.]

2898 **Article [VII] 8. Rustic Roads Program.**

2899 **49-76. Purpose.**

2900 This Article [provides for] authorizes the identification and classification of  
 2901 rustic roads in that part of the County [which is within] located in the Maryland-  
 2902 Washington Regional District. This Article establishes a program to preserve as  
 2903 rustic roads those historic and scenic roadways that reflect the agricultural character  
 2904 and rural origins of the County. Preservation of rustic roads [will] must be achieved  
 2905 by retaining certain physical features of rustic roads and by certain right-of-way  
 2906 maintenance procedures.

2907 **49-77. Definitions.**

2908 In this Article, the following terms have the meanings indicated:

2909 [(a)] *Committee* means the Rustic Roads Advisory Committee[;].

2910 [(b)] *County Council* means the County Council for Montgomery County,  
 2911 Maryland sitting as a District Council for that portion of the Maryland-Washington  
 2912 Regional District in Montgomery County;]

2913 [(c)] *Exceptional rustic road* means an existing public road or road segment  
 2914 which is so classified under Section 49-78[;].

2915 [(d)] *Master Plan of Highways* means the Master Plan of Highways Within  
 2916 Montgomery County, an amendment to the General Plan for the Physical  
 2917 Development of the Maryland-Washington Regional District[;].

2918 [(e)] *Planning Board* means the Montgomery County Planning Board of the  
 2919 Maryland- National Capital Park and Planning Commission; and]

2920 [(f)] *Public utility* means any private company or public agency that[:] [(1)]  
 2921 is regulated as a public utility under [Article 78 of the Maryland Code;] state law, or  
 2922 [(2)] otherwise provides water, sewer, electric, gas, telephone, or cable service (as  
 2923 defined in Chapter 8A) in the County.

2924 [(g)] *Rustic road* means an existing public road or road segment which is so  
 2925 classified under Section 49-78.

2926 **49-78. Rustic road classification and reclassification.**

2927 (a) *Classification.* The County Council may classify, reclassify, or revoke  
 2928 the classification of an existing public road or road segment as a rustic  
 2929 road or an exceptional rustic road by [adopting] approving an  
 2930 amendment to the Master Plan of Highways and the relevant area  
 2931 Master Plan.

2932 (b) *Criteria for rustic road.* Before classifying a road as rustic, the  
 2933 [County] Council must find that an existing public road or road  
 2934 segment:

2935 (1) is located in an area where natural, agricultural, or historic  
 2936 features are predominant, and where master planned land use  
 2937 goals and zoning are compatible with a rural/rustic character;

2938 (2) is a narrow road intended for predominantly local use;

2939 (3) is a low volume road with traffic volumes that do not detract  
 2940 significantly from the rustic character of the road; [and]

2941 (4) (A) has outstanding natural features along its borders, such as  
 2942 native vegetation, stands of trees, stream valleys;

2943 (B) provides outstanding vistas of farm fields and rural  
 2944 landscape or buildings; or

2945 (C) provides access to historic resources, follows historic  
 2946 alignments, or highlights historic landscapes[.]; and

2947 (5) the history of vehicle and pedestrian accidents on the road in its  
 2948 current configuration does not suggest unsafe conditions.

2949 The [County] Council must not classify a road as rustic if that  
 2950 classification will significantly impair the function or safety of the  
 2951 [roadway] road network.

2952 (c) *Criteria for exceptional rustic road.* The [County] Council may classify  
 2953 an existing public road or road segment as an exceptional rustic road.

2954 Before classifying a road as an exceptional rustic road, the [County]  
 2955 Council must find that the road or road segment:

- 2956 (1) [is] qualifies as a rustic road under subsection (b) [of this  
 2957 Section];
- 2958 (2) contributes significantly to the natural, agricultural, or historic  
 2959 characteristics of the County;
- 2960 (3) has unusual features found on few other roads in the County; and
- 2961 (4) would be more negatively affected by improvements or  
 2962 modifications to the physical characteristics of the road than  
 2963 would most other roads in the rustic roads program.

2964 (d) *Significant features.* When the [County] Council classifies a road as a  
 2965 rustic road or an exceptional rustic road, the Council must identify the  
 2966 significant features of each such road that must be preserved when the  
 2967 road is maintained or improved.

2968 [(e) (1) The County Council may by resolution designate all or part of  
 2969 certain public roads as interim rustic roads and interim  
 2970 exceptional rustic roads. Any road designated under this  
 2971 subsection must be treated as if the County Council had so  
 2972 classified the road under subsection (a) or (c).

2973 (2) The Advisory Committee must advise the Department of Public  
 2974 Works and Transportation regarding the significant features of  
 2975 roads designated under this subsection that must be preserved  
 2976 when the roads are maintained or improved, or when a public  
 2977 utility completes work on or near the roads. These significant  
 2978 features have the same status as those the Council identifies  
 2979 under subsection (d).

- 2980 (3) The Council may designate or withdraw a designation under this  
 2981 subsection by resolution after a public hearing if:
- 2982 (A) the County Executive asks the Council to withdraw a  
 2983 designation so that the road can be maintained or improved  
 2984 in a manner not permitted by this Article;
- 2985 (B) the Advisory Committee asks the Council to designate a  
 2986 road or withdraw a designation; or
- 2987 (C) a public utility asks the Council to withdraw a designation  
 2988 so that the public utility can complete work along the road  
 2989 in a manner not permitted by this Article.]

2990 **49-79. Maintenance and improvements.**

- 2991 (a) *County roads.* [Rustic roads] Each rustic road and exceptional rustic  
 2992 [roads] road must be maintained and improved in a manner that  
 2993 preserves the road's significant features which the Council identified [by  
 2994 the County Council] under subsection 49-78(d), but this requirement  
 2995 does not preclude improvements [for the purposes of] to promote safety  
 2996 or movement of farm equipment. The County Executive must establish  
 2997 guidelines by [Executive] regulation under method (2) for maintenance  
 2998 and improvement of rustic roads and exceptional rustic roads.
- 2999 (b) *State and park roads.* The [County] Executive must encourage the  
 3000 State Highway Administration and the [Montgomery] County Parks  
 3001 Department to maintain and improve rustic roads owned by the State or  
 3002 Park Commission in a manner consistent with this Article.
- 3003 (c) *Public utilities.* Public utility work on or near a rustic road or  
 3004 exceptional rustic road is limited by this Article only when the work  
 3005 will damage a structure identified as a significant feature of the road  
 3006 which the Council identified under subsection 49-78(d). [A] Each

3007 public utility must make all reasonable efforts to limit irreparable  
 3008 damage to [such] any significant [features] feature when working on or  
 3009 near a rustic road or exceptional rustic road.

3010 (d) If this Article conflicts with [provisions of] Chapter 24A, [the  
 3011 provisions of] Chapter 24A [apply] prevails.

3012 **49-80. Rustic Roads Advisory Committee.**

3013 (a) *Membership.* The County Executive must appoint, subject to  
 3014 confirmation by the County Council, a Rustic Roads Advisory  
 3015 Committee. The Committee has 7 voting members. Each member must  
 3016 be a resident of the County. The [County] Executive should appoint:

3017 (1) 3 members who are owner-operators of commercial farmland  
 3018 earning 50 percent or more of their income from farming, one of  
 3019 whom is a representative of the Agricultural Advisory  
 3020 Committee;

3021 (2) one member who [has knowledge of] knows rural preservation  
 3022 techniques through practical experience and training;

3023 (3) one member who [has knowledge of] knows roadway  
 3024 engineering through practical experience and training;

3025 (4) one member who represents civic associations located in the  
 3026 Agricultural Reserve; and

3027 (5) one member who represents civic associations in areas located  
 3028 outside the Agricultural Reserve where there are rustic roads.

3029 The Chairman of the Planning Board must designate a member of the  
 3030 planning staff as a non-voting Committee member.

3031 (b) *Officers.* The Committee must elect a chair annually. The Committee  
 3032 may select other officers annually as it finds appropriate. A member  
 3033 must not serve as chair for more than 2 consecutive years.

- 3034 (c) *Meetings.* The Committee [meets] must meet at the call of the chair as  
 3035 often as required to perform its duties, but at least 6 times each year.  
 3036 The Committee must also meet if two-thirds of the voting members  
 3037 request in writing that a meeting be held. The Chair must give  
 3038 reasonable advance notice of all meetings to members of the Committee  
 3039 and the [general] public. A majority of the members are a quorum to  
 3040 transact business.
- 3041 (d) *By-laws.* The Committee may [establish] adopt by-laws to govern its  
 3042 activities.
- 3043 (e) *Duties.* The Committee must:
- 3044 (1) promote public awareness and knowledge of the County rustic  
 3045 roads program [in the County];
- 3046 (2) review and comment on classification of rustic roads and  
 3047 exceptional rustic roads;
- 3048 (3) review and comment on Executive Regulations and other County  
 3049 policies and programs that may affect the rustic roads program;  
 3050 and
- 3051 (4) report on June 1 of each even numbered year to the [County]  
 3052 Executive, the [County] Council, and the Planning Board on the  
 3053 status of the rustic roads program.
- 3054 (f) *Staff.* The [County Executive] Chief Administrative Officer must  
 3055 provide the Committee with staff, offices, and supplies as are  
 3056 appropriated for it.

3057 **Sec. 2. Chapter 32 is amended by inserting Section 32-20A as follows:**

3058 **32-20A. Hitchhiking in street or highway.**

3059            A person must not stand or walk in the main-traveled portion of any public  
3060 street or highway to solicit a ride from the driver or occupant of any vehicle. Any  
3061 violation of this Section is a class C violation.

3062            **Sec. 3. Regulations.** The County Executive must adopt and submit to the  
3063 County Council, not later than (date 120 days after enactment of bill), regulations that  
3064 revise all road construction standards and specifications to be consistent with County  
3065 Code Sections 49-34A, as amended by Section 1 of this Act, and regulations that  
3066 include any applicable requirement for speed humps under Section 49-33B, as  
3067 amended by Section 1 of this Act.

3068 *Approved:*

3069

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Marilyn J. Praisner, President, County Council

Date

3071 *Approved:*

3072

3073

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Isiah Leggett, County Executive

Date

3074 *This is a correct copy of Council action.*

3075

3076

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Linda M. Lauer, Clerk of the Council

Date

# LEGISLATIVE REQUEST REPORT

Bill 48-06

## *Streets and Roads – Comprehensive Revisions*

<b>DESCRIPTION:</b>	Comprehensively revises, updates, clarifies, and reorganizes County law governing street and road design, construction, regulation, acceptance, abandonment, and funding.
<b>PROBLEM:</b>	The County “road code” and related laws have not been substantively revised in decades; parts are archaic and do not reflect current context-sensitive design standards.
<b>GOALS AND OBJECTIVES:</b>	To modernize the County “road code” in ways that promote greater use of pedestrian-friendly designs that better mesh with current land use planning.
<b>COORDINATION:</b>	Department of Public Works and Transportation, Department of Permitting Services, Department of Environmental Protection, Fire and Rescue Service, Planning Board
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Glenn Orlin, Deputy Council Staff Director, 240-777-7936; Michael Faden, Senior Legislative Attorney, 240-777-7905.
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Vary by provision.

**Major Elements of the  
Community Road Code**

**Bill 48-06, Subdivision Regulation Amendment 06-04**

**Introduced by Councilmember Nancy Floreen  
with Council President Marilyn Praisner and Councilmember Duchy Trachtenberg  
December 12, 2006**

**A. *Create more pedestrian-friendly street environments***

The street widths of many roads in Montgomery County's neighborhoods and business districts are wider than they need to be. They are generally built to standards with one overriding objective: to ease the flow of motor vehicles. Context-sensitive street design can result in vehicle speeds that are more compatible with neighborhood and urban environments, providing safer conditions for both drivers and pedestrians. Designers and engineers must consider not only the ability to move the traffic, but also pedestrian safety elements, the natural environment, and the social and economic activity alongside the road.

This proposal would set standards for new and reconstructed roads and streets that would:

- reduce the width of County neighborhood and business district streets by a few feet, enough to reduce the speed of traffic and shorten the distance for pedestrians to cross a street.
- tighten the corners at intersections, which also would slow turning vehicles and shorten crossing distance for pedestrians. Care must be taken to design intersections with mountable curbs, no obstructions, and deeper parking setbacks to let fire trucks navigate tighter corners.
- set standards for road widths, lane widths, and corners that are absolute—not minimum—standards. Dimensions may vary from these standards, but only if approved by the Council (for CIP improvements) or the Planning Board (for improvements that are conditions of subdivision or site plan approval). While agency engineers and planners will continue to be essential advisers on the application of these standards, *this bill places the most important decisions about the street environment squarely with Councilmembers and the Planning Board.*
- apply the tighter business district standards for roads in all Metro Station Policy Areas, the Germantown Town Center Policy Area, and other similar urban areas identified in a later Council resolution (called 'urban' roads in the bill). Examples of other urban areas could include: Montgomery Hills, Olney Town Center, and Clarksburg Town Center.
- repeal the requirement that blocks along Major Highways and Arterial streets be at least 600' long in 'urban' areas. Removing this requirement will allow for more pedestrian-friendly circulation.
- require undergrounding utilities not only in Central Business Districts, but in all Metro Station Policy Areas, the Germantown Town Center Policy Area, and other similar urban areas identified in later Council resolutions.

Other ancillary benefits of these tighter standards are to: reduce the increase of impervious surface, thus mitigating the problems associated with stormwater runoff; use less land for street pavement, leaving more land for better flexibility in siting buildings and landscaping; and reduce the cost of development, except in areas where reconstruction may require rebuilding an existing street.

**B. *Bring the Road Construction Code and Master Plans in sync***

Several road classifications are used in master plans but are not found in the Road Construction Code (part of Chapter 49 of the County Code), and vice-versa. Even when the same classification occurs in both, the definition may differ. This has led to decades-long interagency confusion and disputes as to what standards apply to which roads. Bill 48-06 would:

- use the same road classifications in the Community Road Code as those currently used in County master plans.
- set minimum rights-of-way for each road (Primary Residential Street classification or higher) as directed in master plans. Where a minimum right-of-way is not mentioned in a plan—such as for Secondary and Tertiary Residential Streets—they are set in the bill.
- create two new road classifications: ‘Parkway’ and ‘Minor Arterial’:

The Parkway classification would apply to roads that—while generally functioning as a Major Highway—are located in a park or park-like environment, and on which heavy trucks are prohibited. Today the only master-planned road that meets these criteria is Montrose Parkway (east and west of the planned MD 355 interchange), but other planned roads could have this classification (e.g., M-83 north of Montgomery Village Avenue).

The Minor Arterial classification would fill a wide gap in the classification system between Arterials and Primary Residential Streets. Many low-level Arterials have been reclassified as Primary Residential Streets so they will have smaller dimensions and be eligible for speed humps. This intermediate classification would maintain some characteristics of Arterial streets (no prohibitions on through or truck traffic) while allowing somewhat smaller lane widths and some allowance for flat-top humps.

After Bill 48-06 is enacted, the Planning Board would initiate a comprehensive amendment to the Master Plan of Highways to reclassify certain roads to these new classifications.

**C. *Promoting sidewalks and hiker-biker (‘shared use’) paths***

The bill promotes sidewalks and shared-use paths in several ways. It would:

- set sidewalk widths at 5’ for streets classified as Primary Residential Streets or higher, and 4’ for Secondary and Tertiary Residential Streets on which pedestrian traffic is lighter. Where

housing density is low, sidewalks would be required on only one side on the street, with the objective of reducing imperviousness and construction and maintenance costs.

- apply the 14-day limit on temporary sidewalk closures not only in the Central Business Districts, but to all Metro Station Policy Areas, the Germantown Town Center Policy Area, and other urban areas identified in later Council resolutions.
- establish a fee payment waiver in lieu of a normally required sidewalk if the particular sidewalk would not connect to another sidewalk, a school, a bus stop, or other public facility. The fee would be equal to the cost to design and build the required sidewalk, and the revenue from the fee would be assigned to the County's sidewalk construction program. This provision would redirect some resources to allow sidewalks to be built where they are more needed.

**D. *Promoting street trees***

Street trees, placed judiciously, can improve the street environment. The bill promotes street trees several ways. It would:

- allow landscape panels with a minimum width of 5' and a minimum length of 8', sufficient to accommodate a healthy street tree. Street trees in panels would be placed no more than 30' apart, except where the spacing is interrupted by a street or driveway.
- require a minimum median width of 8' for small (4") trees and 12' for larger trees.

**E. *Other improvements***

Bill 48-06 also would:

- require all conditions of an abandonment to be met within 5 years after approval. The law currently places no time limit on meeting the conditions.
- no longer require the Council to decide abandonments "on the record", meaning the ex parte rule will not apply.
- reduce the standard width for paved shoulders on many open-section roads in order to inhibit speeding and reduce impervious surfaces.
- clarify that the County may build or improve a transportation project in any municipality if the County is authorized by law to build and maintain the project.