

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney
GO Glenn Orlin, Deputy Council Staff Director

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

Transportation and Environment Committee recommendation: enact with amendments.

Bill 48-06, Streets and Roads – Comprehensive Revisions, sponsored by Councilmember Floreen, Council President Praisner, and Councilmembers Ervin and Trachtenberg, would comprehensively revise, update, clarify, and reorganize Chapter 49 of the County Code governing street and road design, construction, regulation, acceptance, and abandonment. The bill was introduced on December 12, 2006, and a public hearing was held on January 23, 2007. The Transportation and Environment Committee held 8 worksessions between February and June and recommended a number of significant amendments, along with many clarifications of ambiguities in the law, repeals of obsolete provisions, and plain language updates. The Council held an extensive worksession on June 26 and covered the major issue areas listed below. **The summary which follows the bill on ©132-134 outlines the major elements of the bill as introduced and as amended so far.**

A) Major Issues/Committee Amendments Already Discussed

The major substantive amendments the Committee recommended are as follows. (Line numbers in this part of this memo refer to draft 10 in the June 26 packet and may have changed slightly in the attached draft 11.)

1. Road classifications. One objective of this bill is to create a one-to-one correspondence between the road classifications in adopted master and sector plans and the classifications in the County Code. Below is a list of classifications now included in master plans or the law; where there is a significant disconnect, the classification is highlighted in **bold**:

| Classification | Comment |
|-----------------------------------------------|---------------------------------------------------------------|
| Freeway | in plans and the Code |
| Expressway | in the Code; in plans a corollary is Controlled Major Highway |
| Controlled Major Highway | in plans; in the Code a corollary is Expressway |
| Major Highway | <i>in plans but not in the Code</i> |
| Arterial | in plans and the Code |
| Business District Road | in plans (Business District Street) and the Code |
| Industrial Street | <i>in plans but not in the Code</i> |
| Primary Residential Road | in plans (Primary Residential Street) and the Code |
| Principal Secondary Residential Street | <i>in plans but not in the Code</i> |
| Secondary Residential Road | in plans (Secondary Residential Street) and the Code |
| Tertiary Residential Road | in plans (Tertiary Residential Street) and the Code |
| Dual Road | <i>in the Code but not in plans as a classification</i> |
| Rural Road | <i>in the Code but not in plans</i> |
| Service Drive | <i>in the Code but not in plans</i> |
| Country Arterial | <i>in plans but not in the Code</i> |
| Country Road | <i>in plans but not in the Code</i> |
| Rustic Road | in plans and the Code |
| Exceptional Rustic Road | in plans and the Code |
| Alley | in the Code; a detail normally not included in plans |

The classifications in master and sector plans are based on each road's function, namely to what degree a road serves two diametrically opposing purposes: mobility vs. property access. For example, a Freeway is 100% for mobility and 0% for access to property (a Freeway has no driveways or other access to private property), while a Tertiary Residential Street is 0% for mobility (no through traffic) and 100% for access to property. The other classifications fall between these extremes. Many policies formally or informally flow from these functional classifications: routing of Ride On buses; priority routes for snow clearance; traffic prohibitions or restrictions; cut-through traffic restrictions; eligible routes for flat-top (22'-wide) speed humps and regular (12'-wide) speed humps. The classification of a road in a master plan is a major decision; it establishes the road's intended purpose for the community.

The bill would tie together master plans and the County Code. See ©33-34, lines 848-850. Since the classifications in master plans are tied to many County policies and practices, and because it is easier to amend the law than 30-odd master plans with a greater number of roads, the Committee agreed that revising the Code's road classifications to match master plans is sound policy.

Bill 48-06 recommends two new road classifications: **Minor Arterial** and **Parkway**:

- The **Parkway** classification would apply to roads that generally function as a Major Highway but are located in a park or park-like environment, and where heavy trucks are prohibited. The only master-planned road that now meets these criteria is Montrose Parkway (east and west of the planned MD 355 interchange), but a few other planned roads could merit 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. Master plans have reclassified many low-level Arterials 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 smaller lane widths and some flat-top speed humps.

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

This bill alters the definitions of these classifications to specify their function, relative speed, and in some cases geographic context (e.g., Business District Streets are found only in commercial and mixed-used areas, and Industrial Streets only in industrial areas). See ©44-46, lines 1139-1191.

2. Design standards. The bill as introduced set specific numeric standard dimensions for each road and street classification: the width of lanes, sidewalks, bike lanes, etc. However, the purpose of these standard dimensions evolved since the bill was introduced:

| Bill as introduced | Committee Recommendation |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The numeric design standards are permanently in law. They would be the core of a new series of detailed street cross-sections and other design elements adopted in Method 2 regulations. | The design standards are an uncodified part of the law. They serve as the <i>guide</i> for Executive regulations and the fallback in case the regulations are not finalized and approved (see below). After the Council approves those regulations, the standards have no effect. See ©46-47, lines 1192-1216; ©51, lines 1273-1278; ©125-130, lines 3251-3319. |
| The Executive has 4 months to transmit Method 2 regulations. | The Executive has 12 months to transmit Method 2 regulations. The Council can extend this deadline by resolution. See ©125-126, lines 3251-3274. |
| The design standards in the law take effect when the bill takes effect. | The design standards take effect only if the Executive does not transmit regulations within 12 months (or longer, if a Council resolution extends the deadline) or if the Council does not approve the regulations within 3 months after receiving them. See ©126, lines 3275-3282. |
| Deviations from the standards are allowed only if they are approved by the Planning Board (for conditions of development approval) or the Council (for County-funded projects). | Spot deviations from the standards can be made by DPWT or DPS. A general deviation from a standard, however, must be approved by the Planning Board or the Council. See ©46-47, lines 1195-1205. |

A few examples illustrate the distinction in the last item between 'spot' and 'general' deviations:

Example 1: The adopted design standard specifies that a particular road would have 11'-wide lanes. Where the road has a significant curve, the lane may need to be somewhat wider to maintain a consistent travel speed. DPWT or DPS could waive the 11'-width standard in the curve.

Example 2: On the same road, to fit in a constrained spot in the right-of-way the lanes would need to be narrowed to 10'. DPWT or DPS could waive the 11'-width standard at that spot in the road.

Example 3: A particular driveway entrance would be used primarily by large trucks. DPWT or DPS could waive the curb return radius standard at that driveway.

Example 4: DPWT believes that a road should have 11.5'-wide lanes everywhere or predominantly, because of the number of large trucks and buses expected to use it. The Planning Board or Council would have to approve the generally wider lanes.

In summary, any numeric design standards in the bill would take effect only if the implementing regulations are not transmitted on time or if the Council does not approve them within 3 months after receiving them. In other words, *they would be standards only in default*. Default standards should be available, the Committee concluded, to guard against the regulation drafting dragging out interminably, thus missing opportunities to design better, more context-sensitive streets.

The new design standards would apply:

- *Only to County roads, not to State, municipal, or private roads.* State or municipal governments may emulate these standards, but that would be their choice.
- *Only to new County roads and subdivision streets, and to roads that are reconstructed.* Reconstruction is defined on ©28, lines 712-714, as road work that involves widening or narrowing the roadway between the edge of pavement or the curbs, whichever applies. The County could use the tighter standards as the basis to re-stripe existing roads and create narrower lanes and new bike lanes, consistent with the spirit of the bill, but the bill does not mandate this.
- *To physical features of County roads, not their operation.* Easing parking restrictions, lengthening pedestrian crossing times at traffic signals, and other operational actions would be consistent with the bill's objectives, but, again, the bill does not mandate those steps.

If special circumstances warrant, the Planning Board may adopt, as a condition of subdivision or site plan approval, alternative standards for a specific road. The Council may do the same for a road project in the Capital Improvements Program. See ©46-47, lines 1195-1200.

3. **Obstruction of right-of-way.** §§49-10 – 49-13 on ©9-14 update current law governing who can place obstructions in a County right-of-way and what permit they must obtain. Responding to comments from the County Attorney’s office, the bill clarifies where the Council’s franchising authority ends and DPS’ permitting authority begins. It distinguishes minor, removable obstructions of a County right-of-way, which only need a permit from the Department of Permitting Services (for example, a fence or café table), from longer-lasting obstructions which require a County franchise. See ©10, lines 223-226; ©11, lines 239-240; and ©23, lines 579-581.

An amendment sponsored by Councilmember Berliner, which the Committee modified and recommended, tightens up the process for County approval of construction-related street or sidewalk closings in urban areas of the County (see ©10-13, lines 232-293. Among other things, the amendment requires the applicant for closing to file a temporary traffic control plan with DPS, expressly lets DPS require a covered walkway in some cases, and makes it more difficult to make pedestrians use the opposite side of a street.

Also §49-10(b) on ©10, lines 214-217, requires any mail or newspaper box in the right-of-way to be mounted on a support that will bend or break away.

4. **Franchises.** In Article 2 on ©22-26, the current law’s franchise provisions are recodified and updated without major substantive change. Executive staff and the County Attorney’s office suggested technical amendments, which the Committee generally approved. Substantively, Executive staff raised questions about the 25-year limits in the current law on franchises and franchise extensions in §49-21 on ©24, lines 583-599. The Committee agreed that a franchise could be held for longer periods, and possibly in perpetuity, so the bill was amended accordingly.

Verizon objected to the requirement in new subsection 49-11(g) that a permittee must have a valid franchise agreement with the County before it installs anything in a County right-of-way; in their view, this language ignores their longtime state franchise. The Committee directed Council staff to further review this provision. After consulting the County Attorney, Council staff recommends the neutral language on ©12, lines 294-297, which simply refers to (but does not define) a “valid franchise”, thus leaving to further interpretation and negotiation which franchises apply.

5. **As-built drawings.** The bill on ©25, lines 612-621, requires each franchisee (including a state franchisee who builds in the right-of-way under a County permit) to submit to DPS “a full set of as-built drawings” showing “the exact location of any facility installed in a County right-of-way”. Pepco and especially Verizon objected to this requirement, arguing that the state Public Service Commission already requires them to document construction activities. In Council staff’s view, the state requirements do not preempt the County, in exercising its regulatory and homeland security functions, from requiring more data than the state does. Verizon also argued that this requirement goes beyond the terms of its cable franchise and expressed concerns that “any such requirement would pose nearly insuperable problems of security, technology, cost, and anti-competitive disclosure.” If the drawings were subject to

public disclosure under the state Public Information Act, Verizon argued, “they would become universally available to potential security risks for terrorist activities or sabotage and to competitors for improper competitive activities.” In Council staff’s view, the state Public Information Act now protects these drawings from public disclosure; but to further eliminate these risks, the Committee added the following sentence on lines 618-621: The Director must keep the required drawings confidential and distribute them only to another County Department which needs them to perform essential construction, maintenance, regulatory, or security functions. Under this language, the public and commercial competitors would not be able to see or obtain copies of those drawings. Comcast questioned whether, because it already must submit similar drawings to the County cable office under its franchise agreement, it would now have to submit 2 copies; in staff’s view, because the law’s requirement would supersede the franchise on this point, they should only have to submit one set of drawings.

6. Road abandonments and closings. The bill would revise the road abandonment process, mainly in §49-63 on ©106-107, lines 2755-2760, by converting the proceeding from one totally governed by a written record, where *ex parte* rules apply, to a more legislative-style process where the Council receives a record-based recommendation from the Executive but is not limited to the facts in that record. This change is made by replacing [be based on] with consider on line 2755. The Executive did not oppose this change.

7. Temporary road closings. In other road abandonment and closing issues, on ©106, lines 2745-2753, the Committee agreed with Executive staff that the law should allow a road to be closed indefinitely, rather than for up to 12 months as the bill provides, under a temporary construction traffic control plan, without following the law’s closure process. Because this alternative would present an easy way to avoid the required public notice and hearing, the Committee modified this provision to allow a longer closing only with express Council concurrence, but without going through the full road closure process.

8. Pedestrian Safety Committee. The bill brings Pedestrian Safety Advisory Committee into the law (see ©123-125), on the same terms as the recent Council resolution, but with a 5-year sunset (see ©130, lines 3320-3329).

9. Public-private participation. In its June 26 worksession, the Council considered but did not adopt an amendment to §49-4 on ©4, lines 66-73, proposed by Jim Humphrey for the County Civic Federation, that would have restricted the County from contracting for any infrastructure item that the Planning Board required a subdivision applicant to take “financial responsibility” for. In a supplementary memo, Council staff explained that the Planning Board has the authority to decide which infrastructure improvements are necessary for a subdivision, but not who must fund them. The Council did change the title of §49-4 to Public-private participation to better reflect its content.

B) Other substantive amendments -- summary

Besides the major substantive issues listed above and the many amendments which only clean up ambiguous and archaic statutory language and repeal redundant or obsolete provisions, Bill 48-06 materially amends the law in the following subject areas (circle/line numbers refer to attached draft 11):

Haul route cleanup (7/137-145, 61/1549-1551). Clarifies that contractors are liable, and must post a bond, for cleanup and damage repairs to affected County roads.

Fire Service access (7/154-155). Broadens DPWT's authority to require property owners to remove right-of-way obstructions to include obstructions which limit Fire and Rescue Service access.

Snow removal (17-19/402-464). Only change is adding shared use paths (bike paths) to areas where snow must be removed.

Underground wires (20-21/485-527). Bill 48-06 as introduced, construed broadly, could have required undergrounding any time an overhead line is located or relocated in a Metro Station Policy Area or other "urban" area. As the Committee modified it, the bill only directs the Executive to consider whether to require undergrounding, if it is "desirable", in those situations.

Purpose language (26/640-658). The purpose language the Committee inserted into the bill, after extensive comments from stakeholders and Executive staff, was intended to express the broad legislative intent – if you will, the governing spirit – behind the "new" road code. This language was particularly intended as a reference point for the drafters of the design standards for future street and road construction. After the Council's June 26 worksession, staff inserted new language, as requested by Councilmember Berliner and conceptually approved by the Council, on line 645 directing that designs must respect and maintain the particular character of the community where (a road) is located. We also inserted the phrase context-sensitive before policies on line 656 because Committee members had often used that phrase to describe the overall intent of these amendments.

Bike path width (27/668). Shared use paths can be 8-12 feet, rather than 8-10 feet, wide.

Ground cover (29/714-717, 56/1409-1422). Broadens definition to allow bushes and shrubs, as requested by environmental advocates, and does not limit height to 18 inches, but does preclude any planting that would reduce public safety or impede travel.

Applicability (30/746-760, 97-98/2515-2521). Makes clear that the road code does not apply to municipally owned and maintained roads, any park road (even if the County maintains it) and any private roads (the law had previously covered some private roads – see lines 755-759). However, also clarifies that the County can build and improve roads and other

transportation facilities that it owns, even if located in a municipality, but must consult with the affected municipality first.

Traffic calming (33-34/838-857). Inserts basic standards now in County regulations into the law, but leaves most details to regulations.

Curbs and gutters (58/1464-1465). Clarifies that curbs and gutters may be installed in certain sensitive areas when they would reduce the environmental impact of a road on any park, forest, or wetland.

Permit length (63-64/1611-1612). Allows DPS to issue road grading and construction permits for terms longer or shorter than 18 months.

Sidewalk waivers (76-77/1958-1975). Allows applicants to “buy out” of building required sidewalks only in cases of extreme hardship.

Abandonments – performance of conditions (110/2852-2858). Provides that, if all conditions for the approval of an abandonment are not performed within the time specified in the resolution or, if no time is specified, 5 years, the abandonment is automatically revoked.

Rustic roads program (117-123). No substantive changes.

C) Remaining issues for Council decision

Executive branch staff raised 2 substantive issues for Council decision, in which they disagree with the bill as currently drafted. (In this part of the memo, circle and line numbers refer to bill draft 11, attached, which incorporates all Committee and Council amendments to date; those numbers may differ from previous drafts.)

1. Planning Board authority to approve alternative designs. Executive branch staff continue to strongly object to the sentence in §49-32 (see ©47, lines 1208-1211) which gives the Planning Board authority to approve alternative design standards for a particular street or road in the context of approving a subdivision or site plan. They do not object to the next sentence (see lines 1211-1213) which gives the Council similar authority in the context of approving a CIP project. The Committee heard Executive staff’s views and voted 2-1 (Councilmember Leventhal dissenting) to retain this sentence in the bill.

Executive staff contends that:

- The provision is of dubious legality. Such delegations of authority must contain standards that govern the discretion exercised by the entity to which authority has been delegated. The provision contains no such standards; it delegates broad and amorphous authority to the Planning Board. And it is unclear whether the County may, under state law, delegate to the Planning Board the authority to engineer a road. Also, depending on how it is applied, the provision may conflict with

County laws that authorize DPWT to determine the grade or configuration of a road.

- Shifting of authority from the Executive Branch to the Planning Board, a State Agency, without justification.
- Lack of detailed information. Since the decisions are being made by the Board in the Preliminary or Site Plan stage, there is no detailed engineering information to justify the action or truly assess the consequences. Whenever the Executive Branch approves alternative standards, it is done at the detailed engineering stage, with a lot more knowledge of the consequences
- The liability for any errors made by the Planning Board shifts to the County. So, the Board would have the authority, but the Executive Branch would have to live and defend the consequences of the Board's decisions. Executive Branch loses control over what is approved in the right of way.
- The interaction between building, fire and road codes is complex and often at odds and requirements frequently negotiated to create the best practicable solution. Negotiation to find acceptable solutions are best and most efficiently completed when they occur across governmental divisions in one branch of government.
- Any conflict between Planning Board (a State chartered agency) standards and the State Fire Code is completely removed from the County's process for final decision and left to the State. Resolution will be made by the State Fire Prevention Commission and Courts, most likely after lengthy delay.
- Past history:
 - Fire and Rescue issued numerous objections to approvals for roads in the Clarksburg area, but the Board ignored them. The consequences have been clear.
 - Approval of private subdivisions with underground garages encroaching onto the public right of way. Previous administration accepted to deal with and grandfathered five subdivisions, but asked the Planning Board to stop this practice. With this authority they can re-initiate those approvals.
- Opposition by the Planning Board staff. The Planning Board staff publicly opposed this transfer as they do not have the expertise and personnel to deal with the creation of new "alternative standards". The Board overrode the staff objections with promises that they will give them additional "professional engineers" to staff the effort. The Executive Branch already has the professional engineers to do this, and we have been doing for over 40 years.
- Consistency over State Roads. There is a desire on the part of MNCPPC staff and staff at Council to extend this authority onto State Roads. If this is deleted from the law, we don't have to have that additional conflict.
- Timeliness of the Decision Process. As part of the detail design plan reviewed by DPS, modification of typical sections and roadside elements within the public Right-of-way are sometime necessary to minimize impact to adjoining properties and preserve environmental features such as existing trees and characters of a neighborhood. These decisions are time sensitive and must be decided and implement in a timely fashion. Any deviation from the preliminary plan will

required it to be reapproved by the Planning Board. To have these design variations approved by MNCPPC could add months into the implementation of the road infrastructures for a development. In some cases it could result in missing the entire construction season.

Council staff recommendation: retain this Planning Board authority. This sentence is needed to resolve one particular “lead agency” question: what happens when the Planning Board requires one road design in a subdivision plan and DPWT’s road standards require a different design? Without this sentence (or its opposite), a deadlock could ensue. Because the Planning Board would act under its authority flowing from the Regional District Act, Council staff does not agree with the legal objections noted in Executive staff’s first bullet. Executive staff’s other objections are generally hypothetical and unpersuasive, in our view. (Council staff also notes that this sentence is not totally new; it partly replaces a deleted provision in the current law which gives the Planning Board the authority to require a wider right-of-way than the minimum right-of-way in County law. See ©54, lines 1356-1363.)

2. Definition of reconstruction. DPWT objects to the bill’s definition of the terms “reconstruct” and “reconstruction” (see ©29, lines 720-722), inserted by staff at DPWT’s request after the Committee finished its review. DPWT would modify the definition as follows (new language highlighted):

Reconstruct and reconstruction include ~~[[any]] a change in the width of a road~~ ~~[[-- that is, the width of the pavement or the area between curbs --]]~~ **greater than 2 feet on one side, but do not include resurfacing a road** ~~[[without any change in its width]].~~

Executive staff argue that:

DPWT staff sees lots of problems with the proposed definition because of unanticipated consequences. Routine maintenance often requires expansion of the pavement by one or two feet on one or two sides of a road to protect the shoulders, for example. Also, in the implementation of a storm drain project we may have to “widen” the pavement by one or two feet on one or both sides of a road. Under the proposed definition we would be considered to be doing reconstruction, and therefore, required to build sidewalks and bikeways... in many instances neighbors want the storm drain issue resolved, but do not want to alter the character of the road by adding bikeways or sidewalks.

Council staff recommendation: do not further amend the definition. The design standards regulation is intended to include standards that would cover most situations. If special circumstances warrant, the Council has the authority to adopt an alternative standard for any road reconstruction in the CIP.

D) Follow-up

After the bill becomes law, at least 5 follow-up actions are needed:

- *Preparation of a new, comprehensive set of road and street design standards in Executive regulations.* The Committee directed the Executive branch to develop these standards through a working group including staff from the Executive Branch (particularly representing the Departments of Public Works and Transportation, Permitting Services, Environmental Protection, and Fire and Rescue Services, and the Executive's Planning Implementation Section) and the Planning Board, as well as non-government stakeholders: advocates for traffic and pedestrian safety, auto and transit mobility, cycling, and stormwater management. See ©126, lines 3266-3271.

The leader of this effort should be a County staffer or contractor who would facilitate the timely progress of work by this group, so that full participation by each member is encouraged and the 12-month deadline can be met. Assistance should be provided by consultants with experience in innovative street design and stormwater management techniques, who would work regularly with the group throughout the year. (A special appropriation will likely be needed shortly to fund the facilitator and consultants.)

- *A Council resolution defining the 'urban' areas that are cited in Chapter 49.* The bill defines 'urban' areas as the Metro Station and Town Center Policy Areas in the most recent Growth Policy, as well as any "other area expressly identified in a Council resolution." The idea is that other areas which either have or potentially would have high levels of pedestrian activity should have 'urban' street design standards. The Planning staff has already explored this matter to a degree; Council staff suggests that this process start with a recommendation from the Planning Board later this summer.
- *Define which roads are Parkways and Minor Arterials in the master plan.* The Council should amend the Planning Board's work program so it can undertake a countywide functional master plan that would ultimately change the classifications of some roads and streets to Parkways or Minor Arterials. A master plan process of this type once begun will likely take more than a year to complete.
- *Re-evaluation of the speed hump program.* The County Civic Federation raised an issue about which streets should be eligible for flat-top (22'-wide) speed humps rather than parabolic (12'-wide) humps. Rather than settling this matter in the bill now, the Committee preferred to re-evaluate the entire traffic calming program later this year. (It was last comprehensively revised in 1998.). If any further amendments to Chapter 49 are needed, they would be introduced after this re-evaluation.
- *Dedicated but unmaintained roads.* The Civic Federation also raised issues about the design and funding of so-called 'orphan' roads. Similarly, the Committee decided to address this issue separately later this year, with possible legislation following from it.

Bill No. 48-06
Concerning: Streets and Roads –
Comprehensive Revision
Revised: 6-29-07 Draft No. 11
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

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

AN ACT to:

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

By amending

Montgomery County Code
Chapter 49, Streets and Roads

By adding

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

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

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

1 **Sec. 1. Chapter 49 is amended as follows:**

2 **Article [I] 1. [In] General.**

3 **[49-1. Regulations and ordinances-Authority to adopt, etc.**

4 The county council is hereby authorized to adopt, and from time to time
5 change and amend, any and all necessary and reasonable regulations and ordinances
6 governing the proper use, care, construction, reconstruction, improvement, grading,
7 repairing and maintenance of the county roads, lanes, streets, alleys, avenues, bridges
8 or other highways, including those dedicated for public use. The county executive is
9 also authorized to adopt, and from time to time, amend and change any and all
10 necessary and reasonable regulations governing the foregoing matters which are not
11 inconsistent with or superseded by any regulation, ordinance or law adopted or
12 enacted by the county council. The council is hereby authorized to provide
13 reasonable penalties for the violation of all such regulations and make other
14 necessary provisions for the enforcement thereof. All such regulations when adopted
15 under method (2) of section 2A-15 of this Code shall have the force and effect of
16 law.]

17 **[49-2] 49-1. [Same-] Compliance with standards [prerequisite to construction,**
18 **etc.]; regulations; penalty for violations.**

19 (a) [No] A public road, [lane, street, alley, avenue,] bridge, sidewalk or
20 bikeway [or other highway shall] must not be constructed,
21 reconstructed, repaired, graded, improved or maintained by any person
22 unless [such] the construction, reconstruction, repair, improvement,
23 grading or maintenance fully complies [in all particulars] with this
24 Chapter and any [the] regulations [and ordinances referred to in section
25 49-1] issued under it.

26 (b) The County Executive may issue regulations under method (2) to
27 implement this Chapter, except where a different method is specified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

159 (1) describes where the obstruction exists;

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

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

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

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

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

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

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

- 214 (a) do any reconstruction or maintenance work; or
- 215 (b) erect or place any structure, fence, post, rock, or other object in the
 216 right-of-way, except:
- 217 (1) [rural delivery] mail boxes mounted on a support that will bend
 218 or break away on impact by a vehicle;
- 219 (2) individual residential newspaper boxes mounted on a support that
 220 will bend or break away on impact by a vehicle;
- 221 (3) street trees placed and maintained under Section 49-33(j);
- 222 [(3)] (4) ground cover placed and maintained under Section [49-35(k)]
 223 49-33(k);
- 224 [(4)] (5) a temporary, removable obstruction or occupation of a right-of-
 225 way installed under [[written agreement with the Director of
 226 [Department of] Permitting Services]] a permit issued under
 227 Section 49-11; or
- 228 [(5)] (6) as otherwise permitted by law.

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

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

- 233 (a) [[Except as otherwise provided in]] Unless this Section prohibits the
 234 issuance of a permit, the Director of Permitting Services may issue a
 235 permit to:
- 236 (1) reconstruct or repair a sidewalk, shared use path, driveway, curb,
 237 or other structure; [or]

- 238 (2) install, repair, locate, or replace underground utilities[, pipes,] or
 239 [lines] infrastructure under a sidewalk or shared use path[.]; or
 240 (3) install a temporary, removable obstruction or occupation of a
 241 right-of-way[[, such as tables at a sidewalk cafe]]; or
 242 ~~[[3]]~~ (4) close a curb lane, sidewalk, or shared use path in conjunction
 243 with the construction or reconstruction of an abutting [[building]]
 244 structure.
- 245 (b) [[Except as otherwise provided in this Section the]] The Director [of
 246 Permitting Services] must not issue a permit for reconstruction or repair
 247 of a sidewalk or shared use path for more than 6 months, or to close a
 248 curb lane, sidewalk, or shared use path for work on an abutting
 249 structure, utilities,[, pipes,] or [lines] infrastructure for more than 15
 250 days, unless a safe alternate walkway or shared use path is provided on
 251 the same side of the street:
- 252 (1) in a [Central Business District] Metro Station Policy Area, Town
 253 Center Policy Area, or other area expressly identified in a
 254 Council resolution;
- 255 (2) within 20 feet of a bus stop or mass transit station entrance; or
 256 (3) on a road:
- 257 (A) designated as a major or arterial highway;
 258 (B) of 4 lanes or more; or
 259 (C) designated as a business district street.
- 260 The Director may allow a covered walkway to serve as an alternate
 261 walkway.
- 262 (c) The Director [of Permitting Services] may issue a permit [[for
 263 reconstruction]] to rebuild or repair [[of]] a sidewalk or shared use path
 264 for more than 6 months, or to close a curb lane, sidewalk, or shared use

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

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

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

275 [[3]] the street is closed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

369 (c) As used in this Section:

- 370 (1) Loose material includes dirt, ash, sand, pebbles, rocks, gravel,
 371 metal, glass, wood chips, and any other substance that can readily
 372 blow off or drop from a vehicle;
- 373 (2) Bulk material includes bricks, cinder blocks, lumber, logs,
 374 gypsum board, barrels, pipes, furniture, and any other items that
 375 can readily drop from a vehicle.
- 376 (d) This [section] Section does not apply to:
- 377 (1) A government agency, or a contractor hired by a government
 378 agency, that is using a motor vehicle to:
- 379 [a.] (A) Drop sand, salt, or other materials to improve traction;
 380 [b.] (B) Spread water or another substance to clean a road; or
 381 [c.] (C) Collect newspapers for recycling.
- 382 (2) A vehicle transporting agricultural products as harvested.
- 383 (3) A construction or mining vehicle only when it is:
- 384 [a.] (A) Crossing a highway; or
 385 [b.] (B) Moving between construction barricades on a public
 386 works project.
- 387 (4) A fire and rescue vehicle.
- 388 [(e) The county executive may issue regulations under method (2) to
 389 implement this section.]
- 390 [(f) Any violation of this section is a class B violation.]

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

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

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

401 **[49-23. Reserved.]**

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

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

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

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

416 (A) an unpaved walkway;

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

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

421 (D) a walkway that:

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

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

- 450 (e) The Executive may order a different deadline or conditions for
 451 removing snow and ice during or immediately after a severe or unusual
 452 storm or other public-safety condition.
- 453 (f) In addition to any other remedy or penalty for a violation of this
 454 Section, the County may clear the snow and ice and charge the
 455 responsible property owner for the cost, which the County may collect
 456 in the same manner as property taxes.
- 457 (g) A violation of this Section is a class C violation. A person authorized to
 458 enforce this Section must not issue a citation for a violation unless the
 459 violation still exists 24 hours after a notice of violation. An authorized
 460 enforcement officer may issue the notice of violation to any person
 461 responsible under subsection (a) for clearing the snow or ice, or post the
 462 notice in a conspicuous place on the property where the violation exists.
 463 Each day a violation continues to exist is a separate violation, except for
 464 a violation on or adjacent to a single-family residential property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

535 **Article 2. Franchises.**

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

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

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

- 547 (1) the essential terms [thereof] of the proposed franchise; [and]
548 (2) the compensation [to be received therefore] the County will
549 receive, which may take the form of in-kind goods and services
550 as well as cash payments; and [setting forth]
551 (3) the location, character, and extent of the [franchise sought] use of
552 the right-of-way.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 767 (a) Except as otherwise provided in this Article, the construction of all
 768 roads must conform to the [minimum requirements,] standards, criteria,
 769 and specifications [provided] in this [article] Article or any regulation
 770 adopted under this Article. [In] As used in this Article, [the word]
 771 "standards" means [Montgomery] County design standards, and [the
 772 word] "specifications" means [Montgomery] ~~[[County]]~~ the most recent
 773 State standard specifications for road construction and materials.
- 774 [(b)] The Montgomery County design standards and Montgomery County
 775 standard specifications are hereby adopted and made a part of this
 776 article. The "standards" and "specifications" adopted hereby may be
 777 amended by the county executive by method 2 regulation. The clerk of
 778 the county council must keep among the official records the standards
 779 and specifications, as adopted by the county council, and any
 780 amendments. The clerk must also prepare and make available to the
 781 public printed copies of this article and of such standards and
 782 specifications. These documents may be provided for free or sold for a
 783 price set by the county executive or a designee.]
- 784 (b) The ~~[[Department]]~~ Director of Public Works and Transportation may
 785 set ~~[[fees]]~~ a fee by method 2 regulation for ~~[[the costs of]]~~
 786 any plan or document submitted ~~[[pursuant to the Subdivision~~
 787 Regulations in]] under Chapter 50 or ~~[[for reviews requested under]]~~
 788 this Chapter. ~~[[The]]~~ Each fee must be based on the costs of reviewing
 789 ~~[[plans]]~~ any plan or ~~[[documents]]~~ document and any staff participation
 790 in the subdivision process. The Department must provide a copy of
 791 ~~[[the current]]~~ each fee regulation to the ~~[[Montgomery County]]~~
 792 Planning Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

882 (3) Standards and Specifications.

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

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

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

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

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

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

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

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

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

917 (3) Standards and Specifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

997 (3) Standards and Specifications.

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

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

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

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

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

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

1016 (1) Width.

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

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

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

1029 (3) Standards and Specifications.

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

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

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

1044 constructed according to the following minimum requirements:

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

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

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

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

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

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

1088 (3) Standards and Specifications:

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

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

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

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

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

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

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

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

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

1122 (3) Standards and Specifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1206 (a) The design standards [[in the table below]] adopted under this Article
 1207 govern the construction or reconstruction of any County road except
 1208 Rustic Roads and Exceptional Rustic Roads. If special circumstances
 1209 warrant, the Planning Board may adopt, as a condition of preliminary
 1210 subdivision plan or site plan approval, alternative standards for a
 1211 specific road. [[, and the]] The County Council may adopt alternative
 1212 standards for a specific road constructed or reconstructed in a project in
 1213 the approved capital improvements program.

1214 (b) A limited segment of a County road may be designed to vary slightly
 1215 from the applicable standards, criteria, or specifications, as necessary to
 1216 adjust to site-specific conditions, as long as the road's typical cross-

1217 section and other attributes conform to the applicable standards, criteria,
 1218 or specifications. [[Before a segment's typical cross-section or other
 1219 attribute can vary from the applicable standards, criteria, or
 1220 specifications, the Planning Board or the Council, as applicable, must
 1221 adopt an alternative standard under subsection (a).]] The regulations
 1222 adopted under this Article must include a process by which the
 1223 Department that approves a limited design variance under this
 1224 subsection regularly notifies other affected County departments, the
 1225 Planning Board, and the public of each variance.

1226 (c) In this [[Section,]] Article and the standards adopted under it:

- 1227 (1) an 'urban' road is a road segment in or abutting a Metro Station
 1228 Policy Area, Town Center Policy Area, or other urban area
 1229 expressly identified in a Council resolution[[.]]:
 1230 (2) a 'rural' road is a road segment located in a rural policy area as
 1231 defined in the County Growth Policy; and
 1232 (3) [[an 'other']] a 'suburban' road is a road segment located
 1233 elsewhere in the County.

| <u>[[Classification</u> | <u>Road/Lane</u> <u>Width ('urban')</u> | <u>Road/Lane</u> <u>Width ('other')</u> | <u>Planned</u> <u>Bike Lanes</u> | <u>Sidewalk</u> <u>('urban')⁶</u> | <u>Sidewalk</u> <u>('other')⁶</u> |
|---------------------------------------------|--------------------------------------------|--------------------------------------------|-------------------------------------|-------------------------------------------------|-------------------------------------------------|
| <u>Freeway</u> | <u>12' lanes</u> | <u>12' lanes</u> | <u>none</u> | <u>none</u> | <u>none</u> |
| <u>Controlled Major Highway¹</u> | <u>12' lanes</u> | <u>12' lanes</u> | <u>5' wide²</u> | <u>5+⁺ wide</u> | <u>5' wide</u> |
| <u>Major Highway^{1,3}</u> | <u>11' lanes</u> | <u>12' lanes</u> | <u>5' wide²</u> | <u>5+⁺ wide</u> | <u>5' wide</u> |
| <u>Parkway¹</u> | <u>11' lanes</u> | <u>11' lanes</u> | <u>none</u> | <u>none</u> | <u>none</u> |
| <u>Arterial^{1,4}</u> | <u>10.5' lanes</u> | <u>12' lanes</u> | <u>5' wide²</u> | <u>5+⁺ wide</u> | <u>5' wide</u> |
| <u>Country Arterial⁴</u> | <u>not applicable</u> | <u>22' road</u> | <u>5' wide²</u> | <u>none</u> | <u>none</u> |
| <u>Minor Arterial^{1,4}</u> | <u>10.5' lanes</u> | <u>11' lanes</u> | <u>4' wide²</u> | <u>5+⁺ wide</u> | <u>4' wide</u> |
| <u>Business District Street¹</u> | <u>10.5' lanes</u> | <u>11' lanes</u> | <u>none</u> | <u>5+⁺ wide</u> | <u>5' wide</u> |
| <u>Industrial Street¹</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' wide²</u> | <u>5+' wide</u> | <u>4' wide</u> |
| <u>Primary Residential Street (with curbs, no parking)⁵</u> | <u>22' road</u> | <u>22' road</u> | <u>3' wide²</u> | <u>5+' wide</u> | <u>4' wide</u> |
| <u>Primary Residential Street (with curbs, 1-side parking)⁵</u> | <u>28' road</u> | <u>28' road</u> | <u>3' wide²</u> | <u>5+' wide</u> | <u>4' wide</u> |
| <u>Primary Residential Street (with curbs, 2-side parking)⁵</u> | <u>34' road</u> | <u>34' road</u> | <u>3' wide²</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> |

- 1234 [(1) Add 1 foot of width to each lane abutting an outside curb. Add another 1
 1235 foot of width to each lane abutting an outside curb if a shared-use roadway is
 1236 consistent with the Countywide Bikeways Functional Master Plan or the
 1237 applicable area master or sector plan.
- 1238 (2) Bike lanes must be included when a road is constructed or reconstructed only
 1239 if bike lanes are consistent with the Countywide Bikeways Functional
 1240 Master Plan or the applicable area master or sector plan. This bike lane
 1241 width replaces the added width under paragraph (1).
- 1242 (3) For an open-section Major Highway add 4 feet of width on each road edge
 1243 for a paved shoulder. If a bike lane is provided on a road edge, the bike lane
 1244 replaces this additional width.
- 1245 (4) For an open-section Arterial, Country Arterial, or Minor Arterial add 2 feet
 1246 of width beyond the edge of the outside lane for a paved shoulder. If a bike
 1247 lane is provided on a road edge, the bike lane replaces this additional width.
- 1248 (5) For a Primary Residential Street, the total curb-to-curb width must be the
 1249 sum of the road width and any master-planned bike lane widths.
- 1250 (6) Sidewalks are required on both sides of roads and streets except for
 1251 Secondary and Tertiary Residential Streets, where the Planning Board may
 1252 require a sidewalk on either one or both sides of a street, depending on the
 1253 housing density and potential use of sidewalks. Alleys must not have
 1254 sidewalks.]]
- 1255 [(b)] (d) The minimum right-of-way for a road may be specified in the
 1256 applicable master plan or sector plan for the area where the road is
 1257 located. If a minimum right-of-way for a particular road is not specified
 1258 in a master plan or sector plan, the minimum right-of-way must be:
- 1259 (1) 80 feet for a Business District Street or Industrial Street;
 1260 (2) 100 feet for a Primary Residential Street with a median;
 1261 (3) 70 feet for a Primary Residential Street without a median;
 1262 (4) 60 feet for a Principal Secondary Residential Street or Secondary
 1263 Residential Street;

- 1264 (5) 50 feet for a standard Tertiary Residential Street;
- 1265 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1266 with two-way traffic;
- 1267 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
- 1268 with one-way traffic; and
- 1269 (8) 20 feet for an Alley.

1270 ~~[(c)~~ The maximum curb return radius for an intersection is:

- 1271 (1) 15 feet for an intersection of ‘urban’ roads, with adjustments for
- 1272 fire and rescue vehicles in the form of rolled or mountable curbs,
- 1273 sufficient parking setbacks, and the prohibition of lateral
- 1274 obstructions at corners; and
- 1275 (2) 25 feet for an intersection of ‘other’ roads.]]

1276 ~~[(d)]~~ (e) Grass shoulders must be load bearing at specific locations

1277 designated by the Director of Permitting Services after consulting the

1278 ~~[[Directors of]]~~ Fire ~~[[and Rescue Services]]~~ Chief and Director of

1279 Public Works and Transportation.

1280 ~~[(e)~~ Trees may be planted in a median if the design speed of the road does

1281 not exceed 40 miles per hour. The median must be at least:

- 1282 (1) 8 feet wide to accommodate trees that will grow to no more than
- 1283 a 4-inch diameter at maturity; and
- 1284 (2) 12 feet wide to accommodate any tree that will grow larger than a
- 1285 4-inch diameter at maturity.]]

1286 ~~[(f)~~ A landscape panel abutting a closed-section road must extend at least 5

1287 feet from the curb and be at least 8 feet long. Trees planted in landscape

1288 panels along ‘urban’ roads must be at least 30 feet apart unless the tree

1289 spacing is interrupted by a public street or driveway.]]

1290 ~~[[g]]~~ (f) Unless otherwise specified in this Article, each grading, drainage
 1291 structure, paving, shoulder, landscaping, and traffic control must be
 1292 installed as provided in the latest applicable County design standards,
 1293 storm drain criteria, and specifications. In addition, when a road is
 1294 resurfaced, the road may also be restriped to meet any applicable lane
 1295 width standard and may include bike lanes where appropriate.

1296 **[49-35] 49-33. [General provisions] Road construction requirements.**

- 1297 (a) [Whenever] If alternative standards and specifications are [provided for]
 1298 allowed in [the preceding section] Section 49-32, any one [(1)]
 1299 alternative may be [chosen at the option of] selected by the [person
 1300 applying] applicant for a permit, subject to the approval of the Director
 1301 of Permitting Services.
- 1302 (b) The [county shall] ~~[[County]]~~ Department of Public Works and
 1303 Transportation must erect, or order a permittee to erect, name signs at
 1304 all road intersections. [[The party managing the construction (either the
 1305 County or the permittee) must install regulatory signs and markings in
 1306 each public right-of-way as required by a signing and marking plan
 1307 approved by the Department of Public Works and Transportation.]] If
 1308 the Director of Public Works and Transportation finds that traffic
 1309 control or vehicular or pedestrian safety so requires, the Director may
 1310 order a permittee to install traffic control signs, markings, or other
 1311 devices on any right-of-way that will be publicly maintained.
- 1312 (c) [Temporary backarounds] ~~[[Backarounds]]~~ Cul-de-sacs or turnarounds
 1313 [shall be] are required [wherever] if the paving of a road ends
 1314 [otherwise] other than at a paved road intersection. [Such] [[The]] Each
 1315 turnaround or [[backaround]] cul-de-sac [shall] must be graded, paved,
 1316 and [shall] include appropriate drainage structures and temporary curbs,

1317 if [required by] the [County] Department of Permitting Services so
 1318 requires.

1319 (d) [Where] If a preliminary drainage study indicates that a minimum right-
 1320 of-way or storm drain easement width [established] required in this
 1321 Article is inadequate [[for proper drainage of]] to properly drain a
 1322 particular road, the [county] Department of Permitting Services may
 1323 require [such] any additional right-of-way or storm drain easement [as is
 1324 found] necessary for [such] proper drainage, [purposes; provided, that
 1325 such requirement shall be made prior to the final approval and recording
 1326 of] [[, but the]] The Department must notify the permittee of any added
 1327 right-of-way [[or easement]] before a dedication plat [among] is
 1328 approved by the Planning Board (or equivalent body in any
 1329 municipality with land use authority) and recorded in the County land
 1330 records [of the County], and must notify the permittee of any added
 1331 easement when it approves a right-of-way permit.

1332 (e) [Where] If a lot or lots front on a public road, the permittee must install
 1333 sidewalks, curbs, and gutters [must be installed], except on any
 1334 [residential road] Secondary or Tertiary Residential Street, [service
 1335 drive, marginal access road,] or [dual lane road (as those terms are used
 1336 in Section 49-34)] Service Drive fronting on any lot in a residential
 1337 zone. This requirement does not apply if the minimum net lot area for a
 1338 one-family detached dwelling in that zone is [larger] [[less]] larger than
 1339 25,000 square feet, except that a sidewalk must be installed on any
 1340 primary or higher classification road. [The exception in the previous
 1341 sentence does not apply] However, the Planning Board may require
 1342 sidewalks, curbs, and gutters in any such zone if the [Planning] Board
 1343 finds, as a condition of approval of a preliminary subdivision plan or

1344 site plan, that sidewalks, curbs, and gutters at that location are necessary
1345 to allow access:

- 1346 (1) to ~~[[an existing]]~~ a sidewalk;
- 1347 (2) to a bus or other public transit stop;
- 1348 (3) to an amenity or public facility that will be used by occupants of
1349 the site or subdivision; or
- 1350 (4) by persons with disabilities.

1351 Before the Planning Board approves any [condition] requirement under
1352 the preceding sentence, the [Planning] Board must give the
1353 [Department] Departments of Permitting Services and [the Department
1354 of] Public Works and Transportation a reasonable opportunity to
1355 comment on the proposed [condition] requirement.

1356 [(f) In the event a minimum right-of-way prescribed by the preceding
1357 section is less than that established for a given road by a zoning or
1358 highway plan approved by the Maryland-National Capital Park and
1359 Planning Commission or the County Council, then the width as
1360 established by such zoning or highway plan shall prevail and the
1361 minimum construction requirements for that road shall meet such
1362 standards and specifications as are found necessary and appropriate for
1363 such width by the County.]

1364 [(g)] (f) The construction of half roads or any road of less than the [minimum]
1365 width [as] required by this Article is prohibited. [; provided, that]
1366 However, construction of such portions of roads [shall be] is permitted
1367 [where] if the dedicated portion of the road established by a dedication
1368 plat and recorded [among] in the County land records [of the County
1369 prior to] before August 15, 1950[,] is [of sufficient width] wide enough
1370 to permit the grading and construction of paving [eighteen (18) feet in

1371 width] 18 feet wide with curbs, [and] gutters, and sidewalks [as are]
 1372 required [by the design standards in those sections of this Article
 1373 applicable to the particular classification] for the type of [the] road
 1374 [under consideration].

1375 (g) [No] A road [shall] must not be constructed unless it connects with an
 1376 existing public road at one [(1)] end, [thereof, and no] A road [shall]
 1377 must not be constructed short of an intersection [except where] unless it
 1378 connects with an existing public road or [where] the dedication of the
 1379 right-of-way ends short of an intersection. [Where] If any road
 1380 construction ends at or goes through an intersection, the intersection
 1381 [shall] must be completed. [, and if it] If a road ends at other than an
 1382 intersection or a point of connection with an existing road, [then]
 1383 turnarounds or [[backarounds]] cul-de-sacs [shall] must be provided.

1384 (h) [Whenever] If drainage structures are required for any particular class of
 1385 road, the Planning Board must require the applicant to install or
 1386 construct drainage structures that the [Planning] Board [determines]
 1387 finds are necessary or appropriate, after reviewing a preliminary
 1388 drainage study approved by the Department of Public Works and
 1389 Transportation, in accordance with applicable design standards and [all
 1390 applicable] specifications.

1391 (i) Driveway entrances to individual lots [shall be] must be required [upon
 1392 a finding] if the Planning Board finds that off-street parking facilities
 1393 are necessary and practicable.

1394 (j) *Street trees.*

1395 (1) On public road rights-of-way, street trees must be planted in
 1396 accordance with design standards of the Department of Public
 1397 Works and Transportation. On private road rights-of-way and

1398 easements, street trees must be planted in accordance with the
 1399 technical manual adopted by the Planning Board under Chapter
 1400 22A.

1401 (2) The [Director] Department of Permitting Services, the
 1402 Department of Public Works and Transportation, and the
 1403 [planning] staff of the Planning Board should coordinate the
 1404 specific location and species of street tree plantings [in order] to
 1405 promote compatibility of the plantings with road function and
 1406 safety, signage, maintenance, appropriate [noise and] visual
 1407 buffering, utilities, other public or private improvements, and
 1408 aesthetic considerations related to streetscape design.

1409 (k) *Ground cover.*

1410 (1) A property owner may plant and maintain ground cover in a
 1411 public right-of-way adjacent to the owner's property if the owner:
 1412 (A) complies with regulations issued under paragraph (3);
 1413 (B) maintains the ground cover to prevent any obstruction of
 1414 the public right-of-way prohibited under Section [49-17]
 1415 49-10; and
 1416 (C) holds the County harmless for any damage to the ground
 1417 cover, and any damage or injury caused by the ground
 1418 cover.

1419 However, ground cover in a public right-of-way adjacent to the
 1420 owner's property [[must not exceed a maximum height of 18
 1421 inches, and]] must not be planted where it will reduce public
 1422 safety or impede travel.

- 1423 (2) In this subsection, property owner or owner includes each person
 1424 with a legal interest in the property and any successor to that
 1425 person's interest.
- 1426 (3) The Director of Public Works and Transportation, after
 1427 consulting the [Director] Directors of Environmental Protection
 1428 and [the Director of] Permitting Services, must issue [regulations]
 1429 guidelines that allow and encourage a property owner to place
 1430 and maintain ground cover in the public right-of-way adjacent to
 1431 the owner's property. The [regulations] guidelines must
 1432 encourage use of ground cover that is environmentally sensitive
 1433 and promotes conservation of natural resources and more
 1434 sustainable landscaping, including plant species that:
- 1435 (A) require reduced or no mowing, fertilizing, or other
 1436 maintenance;
- 1437 (B) are drought tolerant and require little watering at any time;
- 1438 (C) do not inhibit growth of nearby trees; and
- 1439 (D) include non-turf grasses.
- 1440 (4) Except as provided in paragraph (1), this subsection does not
 1441 impair the County's right to enter, maintain, occupy, or otherwise
 1442 control any public right-of-way for any purpose.
- 1443 (l) Curbs and gutters.
- 1444 (1) A person must not install any curb or gutter in any portion of a
 1445 road that is located in:
- 1446 (A) an environmentally sensitive watershed area, including a
 1447 Class III, Class IV, or high-quality Class I watershed, as
 1448 designated by the [state] Maryland Department of the
 1449 Environment; or

1450 (B) ~~[[a headwaters]]~~ an area that the Department of
 1451 Environmental Protection designates as environmentally
 1452 sensitive, after giving the Department of Public Works and
 1453 Transportation and the Planning Board a reasonable
 1454 opportunity to comment.

1455 (2) The Director of Permitting Services may [approve the installation
 1456 of] allow a person to install curbs and gutters in a portion of a
 1457 road located in an area listed in paragraph (1), after giving the
 1458 [Department of Environmental Protection and] the Planning
 1459 Board a reasonable opportunity to comment, if:

1460 (A) installing curbs and gutters will not significantly degrade
 1461 water quality in the area;

1462 (B) curbs and gutters are necessary for vehicular or pedestrian
 1463 safety or the proper grading or maintenance of the road, or
 1464 to reduce the environmental impact of the road on any
 1465 park, forest, or wetland; and

1466 (C) a preliminary subdivision plan or site plan approved by the
 1467 Planning Board for the land abutting the portion of the
 1468 road where curbs and gutters may be installed expressly
 1469 permits the curbs and gutters to be installed, if either plan
 1470 is required for the land in question.

1471 **[49-36. Classification by county executive.**

1472 No person shall construct any road and the county shall not authorize any road
 1473 to be constructed or issue any permit therefor, until such proposed road shall have
 1474 been classified by the county executive as prescribed in this section. All
 1475 classifications of roads shall be by written regulation, adopted by the county
 1476 executive under method (2) of section 2A-15 of this Code, which shall include a

1477 statement of facts and conclusions in support thereof. Classifications of any road
 1478 may be changed from time to time in like manner. An alphabetical name file of all
 1479 roads within the county to which this article applies, indicating their classification
 1480 and status as either "maintained," "accepted for maintenance" or "not maintained"
 1481 shall be kept by the county. A similar file listing all roads according to election
 1482 district and road number shall also be kept.]

1483 **[49-37] 49-34. Construction by [county] County.**

1484 (a) [No] The County must not construct any road [shall be constructed by
 1485 the county, whether on force account or by contract or both,] unless:

1486 (1) the County has previously acquired the right-of-way for [such]
 1487 the road, [has been previously acquired by the county] or the
 1488 right-of-way has been dedicated to public use by appropriate
 1489 recording [among] in the County land records [of the county,];
 1490 and

1491 (2) the cost of the road [is to] will be charged against the benefited
 1492 property in accordance with [sections] Sections 49-51 to 49-61
 1493 and subsection (b) of this [section] Section.

1494 (b) [Any road so constructed shall conform to the minimum requirements,
 1495 standards, and specifications for its particular classification as
 1496 prescribed by this article. The county may require such construction to
 1497 be in excess of or better than that prescribed as a minimum.] Nothing in
 1498 this [Section] Article prohibits the [county] County from constructing a
 1499 road under a contract with a municipality or [pursuant to] an agreement
 1500 between the [county] County and another government agency.

1501 [(b)] (c) [Whenever] If a road is constructed as a "front foot assessment"
 1502 project[, pursuant to sections] under Sections 49-51 to 49-61, the
 1503 [portion of the] cost chargeable and assessed to the benefited abutting

1504 properties [shall] must be all costs of construction, including costs of
 1505 design and of [acquisition of] acquiring land or any interest [therein,] in
 1506 land for right-of-way.

1507 [(c)] (d) All costs in excess of the special benefit to the abutting property or
 1508 otherwise waived in this [article shall] Article must be borne by the
 1509 [county] County.

1510 [(d)] [(e)] The [minimum] requirements of [section 49-34 shall] Section 49-32
 1511 do not apply to any front foot benefit [projects] project authorized for
 1512 advertising [prior to] before August 16, 1950[; provided,] if that [such
 1513 projects shall be constructed subject to the provisions of] project
 1514 conformed to Ordinance S-73[, which ordinance shall be deemed to be
 1515 in full force and effect for such purpose].]]

1516 [(e)] [(f)] (e) The [county] County Executive may authorize the construction
 1517 of [bikeways] shared use paths or [temporary] sidewalks to serve
 1518 general community needs. [Notwithstanding any other provision of this
 1519 article, such sidewalks or bikeways may be constructed without regard
 1520 to the standards and specifications of this article, and the cost of
 1521 construction thereof shall be borne by the county.] Whenever [such] a
 1522 sidewalk or [bikeway] shared use path is [constructed within] built in a
 1523 right-of-way where there is no pavement or other road construction,
 1524 [such construction shall not be construed as acceptance for maintenance
 1525 by the county of] building the sidewalk or shared use path does not
 1526 mean that the County is responsible for maintaining any part of the
 1527 right-of-way except the sidewalk or [bikeway] shared use path [so
 1528 constructed].

1529 **[49-38] 49-35. Permits for grading and construction [--Required;**
 1530 **application; fee].**

- 1531 (a) (1) A person must not construct any road, sidewalk, shared use path,
 1532 curb and gutter, driveway, or drainage structure, or begin any
 1533 such construction (including clearing, grading, and tree cutting),
 1534 without a permit from the Director of Permitting Services.
- 1535 (2) In this Section and Sections 49-36 and 49-37, Director refers to
 1536 the Director of Permitting Services and Department refers to the
 1537 Department of Permitting Services.
- 1538 (3) A person must apply for a permit on forms prescribed by the
 1539 Director [of Permitting Services], [including] submit detailed
 1540 plans and specifications, and include locations and record plats
 1541 approved by the Department [of Permitting Services] and the
 1542 Planning Board.
- 1543 (4) If the proposed activity requires a sediment control permit, the
 1544 [appropriate governmental entity] Department must issue the
 1545 permit before any activity occurs under a permit issued under this
 1546 subsection. The State Highway Administration must approve
 1547 [matters within] any action under its jurisdiction before the
 1548 Director may approve the permit.
- 1549 (5) As a requirement to issue a permit under this Section, the
 1550 Director may require the applicant to designate and bond a haul
 1551 route for construction materials, as described in Section 49-8.
- 1552 (b) Before an applicant begins any road, sidewalk, curb and gutter,
 1553 driveway, retaining wall, steps, or drainage project, [[except a project
 1554 which is [entirely] solely a grading project,]] [may be begun] on a road
 1555 or within the boundaries of a dedication to [the] public use, the applicant
 1556 for a permit to undertake any such project [shall] must pay to the
 1557 County [a] an inspection and engineering fee [which shall be

1558 established] set by the County Executive by [written regulation adopted
1559 under] method (3) regulation [of Section 2A-15 of this Code].

1560 (c) [Where] If any such project is [entirely] solely a grading project, the
1561 applicant [shall] must pay [a fee to the County as] an inspection and
1562 engineering fee to the County [when the office of the Director] if
1563 Department staff does the engineering work on [such] the project and [a
1564 separate] an inspection fee [when] if the applicant [for the permit
1565 furnishes] submits the engineering work. [The fees for grading projects
1566 shall be established and may be revised from time to time by the County
1567 Executive by written regulation adopted under method (3) of Section
1568 2A-15 of this Code.]

1569 (d) Any [person who violates any provision] violation of [subsections]
1570 [[subsection (a), (b), [and] (c), (f), or (g)]] [of this section shall be
1571 subject to punishment for] this Section is a Class A violation [as set
1572 forth in Section 1-19 of Chapter 1 of the County Code. Each day a
1573 violation continues to exist shall constitute a separate offense].

1574 (e) Half the fees [prescribed in] required by this [section shall] Section must
1575 be refunded to the applicant if [his] a permit is [denied] rejected or
1576 withdrawn prior to the commencement of construction. [In the event] If
1577 an applicant proposes to undertake a project using materials, standards,
1578 or specifications superior to [the minimum requirements of] those
1579 required under this [article] Article, the fees [shall] charged must be
1580 computed [upon] on the estimated cost of the project as if it [were to be
1581 done according to the minimum] met those requirements.

1582 (f) A person, including any utility corporation, must not cut a road [for the
1583 purpose of installing or connecting] to install or connect any
1584 underground gas, electric power, or telephone [lines] line, or any other

1585 underground infrastructure, without a permit from the Director [of
 1586 Permitting Services]. The Director [of Permitting Services] must
 1587 supervise all backfilling and repaving of utility trenches to [ensure]
 1588 assure that the permittee complies with [standard 60 and] all applicable
 1589 specifications.

1590 (g) [[A person must not construct sidewalks, driveway entrances, retaining
 1591 walls, or steps, or cut curbs, without a permit from the Director [of
 1592 Permitting Services], and without paying a fee [that the County
 1593 Executive may] set [from time to time] by regulation adopted under
 1594 method (3).

1595 (h)]] An aggrieved person may file an appeal with the County Board of
 1596 Appeals from a denial, suspension, or revocation of a permit issued
 1597 under this Section within 10 days of the denial, suspension, or
 1598 revocation.

1599 **[49-39] 49-36. [Conditions] Permit conditions and procedures.**

1600 [The Director may issue construction permits only on] Each permit issued
 1601 under Section 49-35 must be subject to the following conditions, which the permit
 1602 must specify:

1603 (a) Irrespective of the plans and specifications [accompanying] filed with
 1604 the application, the actual construction [shall] must conform to law and
 1605 to the [minimum] requirements for a road of its class.

1606 (b) [Such permit shall be] A permit is nontransferable. [It shall be] A
 1607 permit becomes immediately invalid if any provision [thereof] of the
 1608 permit is violated.

1609 (c) The permit [must] automatically [expire] expires 18 months after its
 1610 issuance unless [extended in writing by] the Director [of Permitting
 1611 Services] specifies a shorter or longer term when issuing the permit or

1612 later approves an extension, stating the reasons for the extension.
 1613 However, a permit to reconstruct, repair, or otherwise close a sidewalk
 1614 is subject to the durational and other restrictions in Section [[49-18]] 49-
 1615 11. [An extension] The Director must not [be granted] approve an
 1616 extension unless the bond filed with the permit by its term continues in
 1617 full force and effect, a new bond is filed, or the applicant obtains the
 1618 consent of the surety to the extension [is obtained].

1619 (d) The permittee and the permittee's agents, [servants] employees, and
 1620 subcontractors must comply with all approved plans, written
 1621 requirements, and permit conditions that the Director [of the
 1622 Department of Public Works and Transportation] specifies, either before
 1623 or during the [course of] grading or construction, that the Director finds
 1624 necessary to protect public safety or [to] avoid unnecessary
 1625 inconvenience to the public during the grading or construction.

1626 (e) Any authorized official or employee of the County must be able to
 1627 inspect the construction work materials, plans, and specifications at all
 1628 times. A permittee must notify the Department [of Public Works and
 1629 Transportation] at least 48 hours before starting any construction for
 1630 which the Department issued the permit.

1631 (f) [No] The Director must not issue a permit for paving [shall be issued]
 1632 unless [there has been a final inspection and approval of] the
 1633 Department has inspected and approved the grading [by the Director].

1634 (g) For any proposed road construction [The] the permittee must post a
 1635 notice in a conspicuous place on each project site as near to a public
 1636 road as practicable. The notice must take the form of a sign that the
 1637 Department [of Permitting Services] must furnish to the permittee when
 1638 the Department issues the permit. The sign must state that the

1639 construction is authorized by the Department of Permitting Services
 1640 under permit and must display the permit number. The permittee must
 1641 post the sign continuously during construction of the work covered by
 1642 the permit and until final inspection. A person must not remove the sign
 1643 until the Department completes its final inspection. If any other person
 1644 removes the sign or if the sign is damaged, lost, or destroyed, the
 1645 permittee must replace the sign within 24 hours, excluding Saturdays
 1646 and Sundays. The Department [of Permitting Services] must issue new
 1647 signs upon request to replace signs that are damaged, lost, or destroyed.
 1648 A permittee who does not comply with this subsection [must pay \$50 to
 1649 the County, and any other penalties in this Article do not apply] has
 1650 violated the permit.

- 1651 (h) [No permit shall be issued] The Director must not issue a permit for
 1652 construction unless the right-of-way has been acquired by the County or
 1653 [has been] dedicated to public use[,] and [such] the acquisition or
 1654 dedication has been [duly] recorded [among] in the County land records
 1655 [of the County].
- 1656 (i) [Whenever] If the Director [of Permitting Services] finds that a person
 1657 has violated the conditions of any permit, the Director [of Permitting
 1658 Services] may order the permittee to stop construction and may revoke
 1659 the permit. The [willful] refusal of any permittee to stop construction
 1660 after receiving notice of a stop-work order is a separate [[a]] violation of
 1661 this Article.
- 1662 [(j)] If the Director of Permitting Services finds that the standards and
 1663 specifications are not feasible or practicable for a particular project, the
 1664 Director of Permitting Services may require alternate or additional
 1665 standards and specifications in accordance with good engineering

1666 principles, as necessary, and the alternate or additional requirements
 1667 must be a condition of the permit.]

1668 **[49-39A. Permits for grading and construction -- Appeal.]**

1669 ~~[[k]]~~ (i) An aggrieved person may file an appeal with the County Board of
 1670 Appeals from the issuance of a stop-work order or the imposition of
 1671 additional conditions under this Section [49-39]. The appeal must be
 1672 filed with the Board within 10 days [of the issuance of] after the stop-
 1673 work order is issued or the [imposition of] additional conditions are
 1674 imposed.

1675 **[49-40] 49-37. Street and road bonds.**

1676 (a) (1) [A] Before beginning any grading or construction, a permittee
 1677 under this Article must[, before beginning any grading or
 1678 construction,] deliver to the County acceptable security in the
 1679 form of an irrevocable letter [or] of credit from a financial
 1680 institution, cash bond, corporate bond, certificate of guarantee, or
 1681 other instrument approved by the County Attorney. [and in] The
 1682 security must guarantee an amount [estimated by the Director of
 1683 Permitting Services] that the Director estimates to be the total
 1684 cost to perform all work necessary to complete the subdivision's
 1685 streets and roads, including any necessary repairs, in a manner
 1686 suitable for acceptance by the County. As used in this Section,
 1687 acceptable security includes any such letter of credit, bond,
 1688 certificate, or other acceptable instrument.

1689 (2) [For the purposes of] As used in this Article, a certificate of
 1690 guarantee is an instrument issued by an organization or entity
 1691 which is approved by the Director [of Permitting Services] and
 1692 meets [the] capitalization and other reasonable criteria established

1693 by [executive] regulation. Other criteria may include the
 1694 demonstrated expertise of the issuing organization or its members
 1695 in construction of streets and roads; the estimated cost of the
 1696 work to be performed by the permittee; the estimated cost of all
 1697 work guaranteed by the issuing organization or entity; and the
 1698 incidence of violation of, or otherwise failing to comply with, this
 1699 Section by all members of the issuing organization or entity. The
 1700 certificate of guarantee must only be issued by the approved
 1701 organization or entity on behalf of members in good standing of
 1702 that organization or entity. The member for whom the certificate
 1703 is issued must qualify as a ["developer or subdivider"] as
 1704 defined in Section 50-1. [Any] The Director must resolve any
 1705 question [as to] about the eligibility of a permittee to post a
 1706 certificate of guarantee [must be resolved by the Director of
 1707 Permitting Services] in the Director's sole discretion.

1708 [(2)] (3) [Such letter of credit, cash bond, corporate bond, certificate of
 1709 guarantee or other instrument shall] Any acceptable security must
 1710 run to the County[,] and [be conditioned as follows] specify that
 1711 the permittee and all agents and employees must:

1712 [[(a.)]] (A) [That the permittee, his agents and employees, will]
 1713 comply with all [the] applicable terms, conditions,
 1714 [provisions,] requirements, standards, and specifications of
 1715 this Article[.] and any other applicable law;

1716 [[(b.)]] (B) [That the permittee, his agents and employees, will]
 1717 faithfully complete the work for which the permit is
 1718 issued[.]; and

1719 [[~~(c.)~~]] (C) [That the permittee, his agents and employees, will
 1720 save harmless] indemnify the County from any expense
 1721 incurred [through] because of the failure of the permittee[,
 1722 his agents and employees,] or any agent or employee to
 1723 complete the work as required by this Article, [or] and
 1724 from any damages growing out of the negligence of the
 1725 permittee or [his agents or employees] any agent or
 1726 employee.

1727 (b) [In lieu of satisfying the requirements in subsection (a):]

1728 (1) [A] Instead of satisfying the requirements of subsection (a), a
 1729 permittee may file [a cash or corporate bond, an irrevocable letter
 1730 of credit, certificate of guarantee or other instrument] an
 1731 acceptable security approved by the County Attorney in an
 1732 amount [approved by] that the Director [of Permitting Services to
 1733 cause] finds would assure appropriate stabilization of the ground
 1734 surface of any proposed road [projects] project if:

1735 [[~~(a.)~~]] (A) the permittee is a [""]developer or subdivider[""] as
 1736 defined in Section 50-1, [with] and the Director may
 1737 resolve any question as to the permittee's status [being
 1738 resolved by the Director of Permitting Services] in the
 1739 Director's sole discretion; and

1740 [[~~(b.)~~]] (B) the permittee files [among] in the County land
 1741 records, subject to the approval of the County Attorney and
 1742 the Director [of Permitting Services], a master deed or
 1743 covenant delineating the entire subdivision and [stating]
 1744 providing that no lot or parcel has been or may be sold or
 1745 otherwise alienated until the road running between that lot

1746 or parcel and an existing public road is constructed,
 1747 approved, and accepted by the County for maintenance, or
 1748 until the County accepts [a road construction cash or
 1749 corporate bond, irrevocable letter of credit, certificate of
 1750 guarantee or other instrument ensuring] an acceptable
 1751 security assuring the completion of the subdivision streets
 1752 and roads. This [provision] subparagraph does not prohibit
 1753 the sale of all or a substantial portion of any subdivision to
 1754 one or more other developers or subdividers.

- 1755 (2) In determining the conditions and the amount of the [stabilization
 1756 bond, irrevocable letter of credit, certificate of guarantee or other
 1757 instrument] acceptable security, the Director [of Permitting
 1758 Services] may [establish] set reasonable criteria based on
 1759 practical, engineering, environmental or other considerations,
 1760 including:

1761 [a.] (A) [The] the estimated cost of the work to be performed, in
 1762 order to assure sufficient protection to the property on or
 1763 adjacent to the subject subdivision from harm [due to]
 1764 caused by storm water, sediment, or other factors resulting
 1765 from grading, constructing, or otherwise disturbing the
 1766 right-of-way; and

1767 [b.] (B) [The] the estimated cost of removing or repairing any
 1768 hazardous [conditions] condition resulting from the
 1769 operation of the developer's or subdivider's equipment.

- 1770 (3) [When] If the Director [of Permitting Services] finds that a road
 1771 or portion of a road is necessary to protect the public safety or
 1772 welfare or to connect other subdivisions to public highways,

1773 subsection (b)(1) does not apply and the Director [of Permitting
 1774 Services] may require [a performance bond, irrevocable letter of
 1775 credit, certificate of guarantee or other instrument for the
 1776 completion of] an acceptable security to complete the applicable
 1777 road or portion of road [so determined].

1778 (4) The Director [of Permitting Services] may at any time, after
 1779 finding a violation of an applicable law, regulation, or the terms
 1780 and conditions of the permit, revoke the permit and proceed
 1781 against the [bond, letter of credit, certificate of guarantee or other
 1782 instrument] security posted to [ensure] assure the appropriate
 1783 stabilization of the ground surface of the proposed road project.
 1784 The Director [of Permitting Services] may post stop-work orders
 1785 throughout the subject subdivision until an [appropriate bond,
 1786 letter of credit, certificate of guarantee or other instrument]
 1787 acceptable security is posted which [ensures] assures the
 1788 performance of all work necessary to complete the streets and
 1789 roads, including any necessary repairs.

1790 (c) Before acceptance, [all irrevocable letters of credit, bonds, certificates of
 1791 guarantee and other instruments] each proposed security must be
 1792 approved by the County Attorney. If a corporate bond is offered, it
 1793 must be executed by a surety or guaranty company qualified to transact
 1794 business in the state. If a cash bond is offered, it must be deposited with
 1795 the Director of Finance, who must give an official receipt [therefor,]
 1796 reciting that the cash bond has been deposited in compliance with, and
 1797 subject to, this Section. [Cash and corporate bonds, letters of credit,
 1798 certificates of guarantee and other instruments] Any accepted security
 1799 may be released [upon request of] if the permittee and [approval of the]

1800 Director [of Permitting Services] agree. [Cash and corporate bonds,
 1801 letters of credit, certificates of guarantee and other instruments]
 1802 Accepted securities may be released on a prorated basis, depending on
 1803 the amount of completed and approved work. The Director [of
 1804 Permitting Services determines] must decide the amount to be retained
 1805 by the County, but the amount retained must not be less than 15% of the
 1806 total cost of the project until [final acceptance] the Director finally
 1807 accepts the project.

1808 (d) (1) If the Director [of Permitting Services] finds a violation of an
 1809 applicable law or regulation, or a default in the performance of
 1810 any term or condition of the permit[, bond, letter of credit,
 1811 certificate of guarantee] or [other instrument] accepted security,
 1812 the Director [of Permitting Services] must give written notice of
 1813 the violation or default to the principal and to the surety of the
 1814 [bond, letter of credit, certificate of guarantee or other instrument]
 1815 accepted security. The notice must [state] specify the work to be
 1816 done, the estimated cost of the work, and the period of time the
 1817 Director [of Permitting Services] finds reasonably necessary to
 1818 complete the work.

1819 (2) If a cash bond has been posted, the Director [of Permitting
 1820 Services] must give notice of default to the principal; and if
 1821 compliance is not [had] achieved within the time specified, the
 1822 Director may, [proceed] without delay and without further notice
 1823 or proceedings, [to] use the cash deposited, or any portion of the
 1824 deposit, to cause the required work to be performed by contract
 1825 or otherwise in the Director's discretion [of the Director of
 1826 Permitting Services]. After any default in the performance of any

1827 term or condition of the permit[, bond, letter of credit, certificate
 1828 of guarantee] or [other instrument] accepted security, the County,
 1829 the surety, and any person employed or engaged on their behalf
 1830 may enter the site to complete the required work.

1831 (3) If the County undertakes the required work with funds from the
 1832 forfeited [bond, letter of credit, certificate of guarantee or other
 1833 instrument] security, the funds must be used to pay the cost of
 1834 contracting, including engineering and administration, for
 1835 necessary work within the requirements of the plan, permit,
 1836 [bond, agreement] security, or this Chapter.

1837 (4) If the cost of the work exceeds the amount of the [bond, letter of
 1838 credit, certificate of guarantee, or other instrument] security, the
 1839 permittee [continues to be firmly bound under a continuing
 1840 obligation] is liable to pay all excess costs and expenses incurred
 1841 by the County. The costs and expenses must be a lien upon all
 1842 property and all rights to property, real or personal, of any person
 1843 liable to pay [the same] those costs after the costs become due
 1844 and payable, including interest at the rate applicable for overdue
 1845 County taxes. The costs must be listed on the tax bill and must
 1846 be collected in the manner of ordinary taxes.

1847 [(2)] (5) If the Director [of Permitting Services] finds a violation of an
 1848 applicable law or regulation by an organization or entity issuing
 1849 certificates of guarantee, the Director [of Permitting Services]
 1850 may revoke all permits of members of that organization or entity
 1851 for which a certificate of guarantee has been posted. The
 1852 Director [of Permitting Services] may post stop-work orders
 1853 wherever applicable until an appropriate [bond, letter of credit or

1854 other instrument] security acceptable to the County is substituted
 1855 for the certificates of guarantee.

1856 (e) The [County] Executive may adopt regulations under method [(3)] (2)
 1857 to implement this Section. The Director [of Permitting Services] must
 1858 recommend permit fees to include amounts that are necessary to cover
 1859 any increased costs of administration of any programs in this Section.

1860 **[49-41] 49-38. Acceptance of [streets,] roads[, etc.-Authority of county].**

1861 (a) The [county executive] County Executive may [prescribe] specify by
 1862 [written] Executive order, [adopted pursuant to the procedure prescribed
 1863 by law] published in the County Register, the terms and conditions
 1864 [upon] on which any [street, alley,] road [or thoroughfare which has
 1865 been] may be acquired by the [county] County or dedicated to public
 1866 use. [may be accepted, and he may authorize the acceptance of all
 1867 streets, alleys, roads or thoroughfares upon such terms and conditions;
 1868 provided, that such streets, alleys, roads or thoroughfares]

1869 (b) Any action by the County to accept a road must be in writing and fully
 1870 identify the portion accepted. Any accepted road must conform to the
 1871 standards and specifications of [the county road construction code] this
 1872 Chapter and all other applicable laws in force at the time of acceptance.
 1873 [The county council may provide by law for the acceptance of streets,
 1874 alleys, roads or thoroughfares by the county executive which do not
 1875 conform to the standards and specifications of such county road
 1876 construction code; provided, that such law shall establish standards and
 1877 conditions for acceptance to protect the public interest.]

1878 (c) [Upon the acceptance of] When the County accepts any [street, alley,]
 1879 road [or thoroughfare], it [shall become] becomes a part of the [county]

1880 County road system and [shall] thereafter must be maintained by the
 1881 [county] County at its expense.

1882 **[49-42] 49-39. [Same-Generally] Pre-acceptance review by County.**

1883 (a) All permittees under this [article] Article and their agents, [and servants
 1884 shall] contractors, and sub-contractors must comply with all applicable
 1885 provisions of this [article, and until] Article. Until the County accepts a
 1886 road constructed under [the provisions of] this [article] Article [is
 1887 accepted] for maintenance [by the county], the permittees, their agents,
 1888 [and servants] contractors, and sub-contractors and the bond given
 1889 under this [article shall] Article remain liable for the faithful
 1890 performance of [the provisions] all requirements.

1891 (b) After completion and final inspection of a road, the [county shall]
 1892 County must either accept [such] the road, [upon a finding] if the
 1893 Director of Permitting Services finds that [the] its construction [of
 1894 same] has [complied with] met all requirements of this [article] Article,
 1895 and release the bond, or [it shall] the Director must reject the road by
 1896 written [notification] notice to the permittee and [his] surety, where [a
 1897 corporate bond has been] an acceptable security was posted, specifying
 1898 the reasons for [such] rejection by reference to the particular [provision
 1899 of this article] requirement which has been violated, and allow a
 1900 specified reasonable time[, to be specified therein,] for [such] the
 1901 permittee or [his] surety to comply with [the provisions of this article]
 1902 all applicable requirements.

1903 (c) If the permittee or [his] surety does not [thereafter], within the time
 1904 specified, complete the construction [according to the provisions of this
 1905 article] as required, [then] the [county shall] Director must [forthwith
 1906 proceed to do whatever is] take any necessary action to cause the

1907 construction to comply with this [article, and the] Article. The
 1908 permittee and [his bond shall thereupon be] surety are jointly liable for
 1909 any expense incurred thereby.

1910 (d) [Any acceptance of a road by the county shall be in writing, fully
 1911 identifying the road. Thereafter, the road shall be maintained at county
 1912 expense.] [Where] If cash has been deposited [pursuant to] under
 1913 subsection [(c) of section 49-40] 49-37(c) and a road is not accepted, the
 1914 [county] County may withhold any funds remaining in the cash deposit
 1915 account until [compliance by] the permittee complies with [the
 1916 provisions of] this [article] Article. If the permittee does not comply,
 1917 the [county] County may declare a forfeit of [such] any amount [as is
 1918 required to effect] needed to bring the road into compliance.

1919 **[49-43] 49-40. Waivers of requirements of Article.**

1920 (a) The [requirements] Director of Permitting Services may waive any
 1921 requirement of this Article for sidewalks, rights-of-way widths, [curbs
 1922 and gutters, paving widths, street trees,] grade percentages, full-width
 1923 grading, [construction to intersection,] and the construction of both
 1924 roadways of a dual [lane] road, or any combination of them, [may be
 1925 waived by the Director of Permitting Services] as allowed in this
 1926 Section, for any [roads to be] road constructed by the County or
 1927 [permittees] a permittee.

1928 (b) The Director must apply the following standards for granting or denying
 1929 waivers [are established]:

1930 (1) *Sidewalks.*

1931 (A) [[Terrain waiver]] Waiver authority. [Upon a finding that]
 1932 The Director may waive any requirement to install
 1933 sidewalks if:

- 1934 (i) the lots abutting the right-of-way are unimproved;
- 1935 [or that]
- 1936 (ii) the street was lawfully graded [prior to] before
- 1937 August 15, 1950, and the terrain is so steep and
- 1938 uneven that [the] grading for sidewalks cannot be
- 1939 done except at excessive cost, or [that]
- 1940 (iii) houses or buildings abutting the right-of-way which
- 1941 were constructed [prior to] before August 15, 1950,
- 1942 are so situated, and the property upon which [such]
- 1943 those houses or buildings are located is so graded,
- 1944 that the construction of sidewalks is undesirable[,
- 1945 the waiver may be granted].

1946 (B) Waivers not allowed. Notwithstanding the [above]

1947 preceding subparagraph, [upon a finding that] the Director

1948 may deny a waiver if:

- 1949 (i) the street involved [in] is a [primary residential
- 1950 road] Primary Residential Street, Industrial Street,
- 1951 Business District Street, Minor Arterial or [an
- 1952 arterial road,] Arterial, Major Highway, or
- 1953 Controlled Major Highway; or [that]
- 1954 (ii) the required sidewalks [which are the subject of the
- 1955 application] are necessary or desirable to provide
- 1956 safe access for pedestrians[, the waiver may be
- 1957 denied].

1958 (C) Waiver ~~[[for]] and fee payment.~~ As an alternative to

1959 building a sidewalk on an existing or proposed street, the

1960 Director may allow an applicant ~~[[may be allowed]] to pay~~

1961 a fee [[under certain circumstances]] if the applicant shows
 1962 that building a sidewalk as required would cause extreme
 1963 hardship. The [[otherwise required]] sidewalk that would
 1964 be waived must not connect to another existing or
 1965 proposed sidewalk, shared use path, bus stop, school, or
 1966 other public facility. The fee must equal the full cost to
 1967 build the sidewalk, including the design and supervision
 1968 costs. This fee must be paid, any necessary right-of-way
 1969 must be dedicated, and any necessary perpetual easement
 1970 must be recorded before the Director issues any road
 1971 construction permit for the proposed public street. The
 1972 revenue from these fees [[will]] must be assigned to a
 1973 capital account for sidewalk construction and may be
 1974 [[expended if]] spent as appropriated by the County
 1975 Council.

1976 (2) *Right-of-way widths.* [A waiver of] The Director may waive or
 1977 reduce any right-of-way width [may be granted whenever there is
 1978 a finding that] if:

1979 (A) the proposed right-of-way connects with an existing right-
 1980 of-way of substandard width which was lawful when
 1981 established, but [a waiver] the Director must not [be
 1982 granted for] waive or reduce any part of [such] the
 1983 proposed right-of-way which is beyond a four-way
 1984 intersection or any other logical point of widening; [. A
 1985 waiver may be granted upon a finding that]

1986 (B) the proposed right-of-way is the connecting link of a street
 1987 and the right-of-way at each end is [of] a substandard

width which was lawful when established. [A waiver may also be granted when there is clear and convincing evidence that the applicant has made every reasonable effort to acquire additional right-of-way and has been unable to do so.]

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

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

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

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

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

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

2014 [(5)] (3) *Grade percentages.* [A waiver may be granted when] The
 2015 Director may waive or reduce any required grade percentage if
 2016 the [proposed] road connects with [an existing] another road or
 2017 private driveway in such manner that the grade percentage
 2018 required by this Article cannot be provided. [A waiver may also
 2019 be granted whenever it is found that adherence to the grade
 2020 percentage requirements of this Article would result in a
 2021 substantial depreciation in the value of the houses or buildings
 2022 previously constructed on the lots abutting the proposed street.]

2023 [(6)] (4) *Full-width grading.* The Director may waive or reduce any
 2024 requirement for full-width grading [may be waived] if:

2025 [a.] (A) a grading permit was issued before August 15, 1950, all
 2026 grading required by [such] that permit was done, sidewalks
 2027 are not required or are waived, [and] further grading is not
 2028 required to construct the pavement or curbs and gutters, [. However, a waiver must not be granted if] and a majority
 2029 of the lots abutting the proposed road [are undeveloped]
 2030 have been developed;

2032 [b.] (B) the [waiver will result in the protection of] reduced width
 2033 is needed to protect a specimen tree, significant [stands]
 2034 stand of mature trees, or certain trees or other sensitive
 2035 environmental features designated for preservation in an
 2036 approved forest conservation plan or other regulatory
 2037 approval; or

2038 [c.] (C) for [secondary residential roads only] a Secondary
 2039 Residential or Tertiary Residential Street, the applicant
 2040 proposes to [construct the extension of] extend an existing

2041 paved road which ends short of an intersection, [and] the
 2042 right-of-way containing the existing paved road is not
 2043 graded to its full width, and the waiver does not apply
 2044 beyond the intersection.

2045 [(7) *Construction to intersection.* The requirement that no road shall
 2046 be constructed short of an intersection may be waived when there
 2047 are no houses or buildings on the property abutting that portion of
 2048 the right-of-way covered by the waiver request, and the cost of
 2049 constructing the intersection included in the waiver request does
 2050 not exceed normal street development cost.]

2051 [(8) (5) *Dual [lane] roads.* [A waiver may be granted permitting] The
 2052 Director may allow the construction of only one [(1)] roadway of
 2053 a dual [lane] road [whenever] if:

2054 (A) the applicant for [such] a waiver does not own the property
 2055 abutting the roadway for which the waiver is requested; [,
 2056 and such]

2057 (B) the abutting property is undeveloped; [and]

2058 (C) the temporary use of two-way traffic [of] on the single
 2059 roadway to be constructed will not interfere with the flow
 2060 of traffic so as to cause congestion; [, and]

2061 (D) each intersection [is] will be constructed completely[,]; and

2062 (E) the main drainage system [is] will be constructed as a part
 2063 of the roadway first constructed.

2064 (c) In addition to the other provisions of this Section, any person may
 2065 propose temporary or interim improvements to an existing public road
 2066 by filing a written request for a waiver of any requirement of this [road
 2067 construction code] Article. The County Executive may grant the

2068 [person's] request for a waiver in whole or in part when the Executive
 2069 finds, by notice published in the County Register, that the application
 2070 satisfies the following conditions:

2071 (1) The Director of Permitting Services, after reviewing detailed
 2072 plans and specifications of the proposed improvements, must
 2073 recommend in writing, using waiver criteria developed by the
 2074 Department of Public Works and Transportation, that the
 2075 Executive should approve or disapprove the improvements
 2076 proposed in the plans submitted by the applicant and state the
 2077 reasons for the recommendation. The failure of the Director to
 2078 act on the plans within 30 days after submission constitutes the
 2079 Director's support of the Executive granting the waiver[;].

2080 (2) [Where] If a road is proposed to be improved by the County, the
 2081 road [to be improved] is [included] listed for construction or
 2082 reconstruction in an approved six-year capital improvements
 2083 program[;].

2084 (3) [That an] An immediate, temporary improvement is necessary to
 2085 provide safe vehicular access to residents presently residing on or
 2086 near the road[;].

2087 (4) The road is a County public road, and all rights-of-way required
 2088 for the proposed improvements [has] have been acquired by or
 2089 dedicated to the County[;].

2090 (5) The applicant for such a waiver has agreed to make, or cause to
 2091 be made, all of the proposed improvements in the road at no cost
 2092 to the County. An applicant under this [Article shall] subsection,
 2093 [prior to] before beginning any grading or construction, must
 2094 deliver to the County a cash or corporate bond in [such] the

2095 amount [as is] estimated to be the total cost of the project. [Such]
 2096 The cash or corporate bond [shall] must run to the County[,] and
 2097 [be conditioned as follows] require the applicant to:

2098 [a.] (A) [That the applicant will] comply with all [the] applicable
 2099 terms, conditions, [provisions,] requirements, standards,
 2100 and specifications of this Article[.];

2101 [b.] (B) [That the applicant will] faithfully complete the work for
 2102 which the permit is issued[.]; and

2103 [c.] (C) [That the applicant will save harmless] indemnify the
 2104 County from any expense incurred through failure of the
 2105 permittee[, his] or the permittee's agents and [servants]
 2106 employees, to complete the work as required by this
 2107 Article or from any damages [growing out of] that result
 2108 from the negligence of the [applicant or his agents or
 2109 servants] permittee or the permittee's agents or employees.

- 2110 (6) The applicant for [such] a waiver [shall] under this subsection
 2111 must submit for recording in the County land records [of the
 2112 County for himself and for all other petitioners for such waiver],
 2113 in a form approved by the County Attorney, covenants which
 2114 bind the applicant, [and] each petitioner, and [all of] their
 2115 successors in title to accept, as against each of their properties
 2116 which are adjacent to [such] the road, any future special
 2117 improvement assessments levied [for the construction of such] to
 2118 build the road, reserving [in such covenants] the right to
 2119 challenge any assessment [in excess of] which exceeds the
 2120 amount by which [such] the property is specially benefited [by
 2121 such construction].

- 2122 (d) The County may [provide] make temporary or interim improvements to
 2123 an existing public road without construction or reconstructing [the
 2124 same] it, and thereby waive any requirements of this [road construction
 2125 code upon a written finding by] Article, if the County Executive finds,
 2126 by notice published in the County Register, that [all of the following
 2127 conditions are satisfied]:
- 2128 (1) [The] the road to be improved is [included] listed for planning
 2129 and design or for construction or reconstruction in the most
 2130 recently approved six-year capital improvements program;
- 2131 (2) [That] an immediate, temporary improvement is necessary to
 2132 provide safe vehicular access to nearby residents [presently
 2133 residing on or near the road];
- 2134 (3) [The] the road is a County public road, and no additional right-of-
 2135 way [need be acquired] is needed for the proposed improvement;
 2136 and
- 2137 (4) [That the waiver of] waiving any [of the requirements]
 2138 requirement of [the road construction code] this Article will not
 2139 [be detrimental to the] impair public safety.
- 2140 [(e) Any provision of this road construction code may be waived for a
 2141 community development area project falling within the boundaries of,
 2142 or as part of, urban renewal projects, community development or
 2143 redevelopment projects, and neighborhood improvement projects
 2144 approved in the capital improvements program for the purpose of
 2145 eliminating blight and slums and preventing blight and deterioration of a
 2146 neighborhood or designated area; provided, that the County Executive
 2147 shall make a written finding that such project contributes to the

2148 objectives and purposes of the approved program and will not
2149 substantially impair the purposes of this Code.]

2150 [(f)] (e) The County may [provide] make temporary or interim improvements
2151 to an existing public road without construction or reconstructing [the
2152 same] it, and thereby waive any requirements of this [road construction
2153 code upon a written finding by] Article, if the County Executive finds,
2154 by notice published in the County Register, that [all of the following
2155 conditions are satisfied]:

- 2156 (1) [The] the road improvements are needed to relieve hazardous
2157 [and] or emergency conditions, or to protect the health and well-
2158 being of the community;
- 2159 (2) [The] the road to be improved is less than [one and one-fourth (1
2160 1/4) mile in length] 1 1/4 miles long, not located in a new
2161 subdivision, and no additional right-of-way [need be acquired] is
2162 needed for the proposed improvement;
- 2163 (3) [[Existing]] existing and projected traffic levels are appropriate to
2164 the construction standards proposed;
- 2165 (4) [The] the road improvements are limited to surface treatments
2166 and[/or] minor drainage improvements;
- 2167 (5) [The] the road improvements will reduce road maintenance
2168 expenses;
- 2169 (6) [The] the County Executive has received a petition endorsing the
2170 proposed improvements signed by a substantial majority of the
2171 property owners adjacent to the road; and
- 2172 (7) [The road] the proposed improvements and their estimated costs
2173 [thereof] were [specifically] expressly included in the County

2174 Executive's annual budget, [submission] and [have been
2175 approved by] the Council appropriated all necessary funds.

2176 [(g)] (f) [Any] The County Executive may waive any provision of [the road
2177 construction code may be waived by the County Executive in event of]
2178 this Article to respond to an unforeseen emergency or disaster, such as a
2179 flood, hurricane, or public health crisis, or [compliance] to comply with
2180 [implementing federal] Federal or [state] State rules, regulations or
2181 recommendations issued to deal with any [[such]] emergency or
2182 disaster; [provided, that a written finding and determination shall be
2183 made] if the Executive:

2184 (1) issues an Executive order which states the nature of the
2185 unforeseen emergency or disaster, the scope and duration [of the
2186 waiver] and any other conditions of [such] the waiver, and [such
2187 findings and determinations shall be]

2188 (2) promptly [communicated] submits a copy of the order to the
2189 County Council.

2190 [(h) Before any requirement to construct a sidewalk, curb, or gutter is
2191 waived under this Section, or the Director sends a waiver of such a
2192 requirement to the County Executive for approval, the Director must
2193 give the Planning Board and the Department of Environmental
2194 Protection a reasonable opportunity to comment on the environmental
2195 and land-use effects of waiving the requirement.]

2196 [(g) The Planning Board may waive any requirement, as allowed in this
2197 Section, for any private road to be constructed under an approved
2198 preliminary subdivision plan or site plan.]]

2199 [49-44] 49-41. Penalty for violations of [article] Article.

2200 Any [person violating any provision] violation of this [article shall be subject
 2201 to punishment for] Article is a [[class]] Class A violation, except as expressly
 2202 provided otherwise [as set forth in section 1-19 of chapter 1 of the County Code].
 2203 [Each day a violation continues to exist shall constitute a separate offense.] [This
 2204 section shall not apply to subsections (b) and (c) of section 49-38.]

2205 **49-42, 49-43, 49-44. Reserved.**

2206 **Article [III] 4. Acquisition of Land [for Streets and Sidewalks].**

2207 **49-45. [Acquisition of] Authority to acquire land for [use in opening new**
 2208 **roads, sidewalks, etc., by purchase] transportation purposes.**

2209 The [county shall have full power to agree and contract with owners for the
 2210 purchase of] County may buy land[, the use of] which [may be required] is needed in
 2211 connection with:

- 2212 (a) the opening of any new road, [street, alley,] shared use path, or
 2213 sidewalk, [for]
- 2214 (b) the construction or repair of any bridge,
- 2215 (c) the relocation, straightening or widening of any road, street, alley,
 2216 bikeway, or sidewalk,
- 2217 (d) the proper drainage of any [[such]] road, street, alley, bikeway or
 2218 sidewalk, [for]
- 2219 (e) the building of any public building or structure, or [for]
- 2220 (f) any other [necessary] public transportation purpose.

2221 **49-46. Condemnation [upon failure of owner to agree to purchase-**
 2222 **Authority of city; condemnation under general law].**

2223 If the [county shall be unable for any reason to] County cannot agree with the
 2224 owner of any land, [the buildings or improvements thereon, or any interest therein,
 2225 the use of which is] building, or improvement required for any [necessary] public
 2226 purpose [or for the opening of any new road, street, alley or sidewalk, for

2227 construction or repair of any bridge, for the relocating, straightening or widening of
 2228 any road, street, alley or sidewalk, the proper drainage thereof, for the building of any
 2229 public building or structure, or for any other necessary public purpose,] listed in
 2230 Section 49-45, [then] the [county] County may [proceed to] condemn the [same]
 2231 land, building, or improvement, or any interest in them, for the use of the [county]
 2232 County under [the provisions of the public general] any applicable State law [relative
 2233 to] that authorizes condemnation by [corporations, municipal or otherwise] local
 2234 governments.

2235 **[49-47. Same-County not required to accept award or judgment rendered.]**

2236 The [county shall] County need not [be required to] accept the award or
 2237 judgment rendered in any proceeding under [the statute, referred to in the preceding
 2238 section] this Section, but instead may abandon the project [upon payment of the] after
 2239 paying any costs [thereof] required by law.

2240 **49-47, 49-48. Reserved.**

2241 **49-49. Procedure after construction work has been done [or completed].**

2242 [Whenever] If the County has built any road, highway, street, bridge, bikeway,
 2243 sidewalk, curb, gutter or drainage ditch [shall be constructed in the county] on[,
 2244 through or upon] any land [in the county the title to which or the right-of-way over
 2245 which shall not have been first secured by the county prior to the construction of any
 2246 such improvement] which the County did not own or have authority to use, [then] the
 2247 [county is hereby authorized and empowered to proceed to] County may condemn
 2248 [such] the land and any [and all] improvements [thereon] on it under [the provisions
 2249 of] any applicable State law [relating to] which authorizes the condemnation of land
 2250 for public purposes [as fully] as though the improvement [thereon] had not been
 2251 [constructed prior to the institution of] built before condemnation proceedings began.

2252 **49-50. Optional method of condemnation of land for streets or roads.**

2253 As authorized by Section 40A of Article III of the Maryland Constitution [of
 2254 Maryland], the County may acquire any land or interest in land required for a right-
 2255 of-way for a County [roads or streets] road or street by using the following
 2256 procedure:

2257 (a) When the County Council finds an immediate need to acquire [private
 2258 property for right-of-way for County roads or streets] land or an interest
 2259 in land, the Council by resolution must:

- 2260 (1) describe the property,
- 2261 (2) list the owner [[or owners]] as [[they appear]] the owner appears
 2262 on the County assessment records [of the County],
- 2263 (3) appoint a licensed real estate broker or a licensed real estate
 2264 appraiser to estimate the property's fair market value,
- 2265 (4) direct the County Attorney to acquire the property or interest
 2266 under this procedure, and
- 2267 (5) guarantee the payment of any amount above the estimated fair
 2268 market value, later awarded by a jury.

2269 (b) (1) Promptly after being appointed, the broker or appraiser must
 2270 estimate the fair market value of the property or interest and
 2271 submit a written report to the County.

2272 (2) The County then may by petition, naming the owner [[or
 2273 owners]] and all persons of record whose interest in the property
 2274 would be taken, pay to the Circuit Court the amount estimated by
 2275 the broker or appraiser to be the fair market value of the property,
 2276 and record a copy of the resolution of taking [among] in the
 2277 County land records [of the County]. A copy of the resolution
 2278 must be attached to the petition. A copy of the petition and

2279 resolution must be served [upon] on each person named in the
2280 petition.

2281 (3) A copy of the petition and resolution must be filed with the
2282 Supervisor of Assessments, who must promptly adjust the tax
2283 assessment records.

2284 (4) The County may then immediately take possession of the
2285 property or interest described in the resolution without further
2286 notice to the property owner or other [persons] person of interest,
2287 and may proceed with the road or street project.

2288 (5) Payment into court of the amount estimated by the County's
2289 broker or appraiser to be the fair market value of the property or
2290 interest does not limit the amount that may be later awarded by a
2291 jury. The guarantee of the County to pay any further sum later
2292 awarded by a jury remains in effect until the final disposition of
2293 the proceeding.

2294 (c) The owner of [such] any property or interest taken [shall be entitled],
2295 upon written request to the Clerk of the Court, [to] must receive [such]
2296 the amount [as was] paid [[into]] to the court[, provided such] if the
2297 owner agrees in writing filed with the Clerk to pay back to the County
2298 the difference between [such] the amount received and a final award
2299 made by a jury, if [such] the final award is less than the amount paid
2300 [[into]] to the court.

2301 (d) Upon payment of the required money [[into]] to the court [as aforesaid]
2302 under subsection (b)(2), the County [shall proceed to] must negotiate
2303 with [the owner of] the property [affected in an effort] owner to attempt
2304 to obtain by amicable negotiation [such] any right, title [and] or interest
2305 [of the owner's property as is] necessary for the road or street project

2306 [upon which is based the need to acquire such property]. If the County
 2307 and the owner [of such property are unable to] cannot agree [upon] on a
 2308 sum to be paid [for the property] after payment [of the money] [[into]]
 2309 to the court [as aforesaid], [such] the owner may request the County to
 2310 institute condemnation proceedings[, and upon such request the]. The
 2311 County [shall] must, within [ninety (90)] 90 days [of such] after
 2312 receiving a request, [institute such] begin condemnation proceedings [in
 2313 accordance with the procedure established in] under [Article Real
 2314 Property,] [[Section 12-101]] Title 12 of the [Annotated Code] Real
 2315 Property Article of the Maryland Code, [as amended; provided, that the]
 2316 or any successor provision. The County on its own may [institute such]
 2317 also begin condemnation proceedings at any time.

2318 (e) The jury award [upon] on any property or interest taken under this
 2319 [procedure shall] Section must be based [upon] on the value of the
 2320 property [at the time of payment by] or interest when the County paid
 2321 [[into]] to the court.

2322 (f) The County [[need]] is not required to accept the estimate of its broker
 2323 or appraiser, [[and, before]] Before paying any funds [[into]] to the
 2324 court, the County may withdraw its petition by paying [the] any costs
 2325 [thereof] required by law. In that case, the County is not entitled to take
 2326 possession of the property or interest. In withdrawing its petition, the
 2327 County [has] does not [waived the] waive its right to [institute] begin a
 2328 condemnation action or a new proceeding under this Section against the
 2329 same property, or to buy the same property or interest by negotiation
 2330 with the owner.

2331 (g) The procedure [established] in this Section [shall] does not apply if the
 2332 property [actually] to be taken includes a building [or buildings].

2333 **Article [IV] 5.**
 2334 **[Construction of] County Roads [by County] – Authority and Funding.**

2335 **49-51. Definitions.**

2336 As used in this Article:

2337 *Construction*[: The term "construction"] means construction [and] or
 2338 reconstruction (but not maintenance), and includes grading, installation of drainage
 2339 structures, and paving[[, curbs and gutters, sidewalks, returns of curbs, sidewalk and
 2340 driveway entrances, guard rails, retaining walls, sodding, and planting]].

2341 *Road*[: The term "road"] includes any road, street, highway, avenue, lane,
 2342 alley, bridge, shared use path, sidewalk, [and] viaduct, and any related storm drain
 2343 and stormwater management facility.

2344 **49-52. Road construction to be authorized by [county executive] County**
 2345 **Executive; [council] Council to assess benefits.**

2346 (a) [No road shall be constructed by the county except pursuant to a written
 2347 order of the county executive] The County must not build any road
 2348 unless the County Executive has issued an order authorizing the
 2349 construction [of such road]. [Whenever any such road construction in
 2350 the county] After the Executive has [been so] authorized the road, the
 2351 County Council may assess the cost of construction [shall be assessed
 2352 by the county council] by resolution as a benefit to all property adjacent
 2353 to the road's right-of-way [of such road] and specially benefited by [the]
 2354 its construction [thereof; provided, that:] as provided in this Section.

2355 [(a)] (b) [Such cost of construction shall be assessed only to the extent that any
 2356 road construction code of the county in force at the time] The law in
 2357 effect when construction is authorized [provides for] must allow the
 2358 assessment of [such] all or part of its cost [or any portion thereof;].

- 2359 [(b)] (c) [No such] A property [shall] must not be assessed [in excess of] more
 2360 than the amount by which [such] the property is specially benefited by
 2361 [such] the construction[;].
- 2362 [(c)] (d) Property owned by the United States, the [state] State, or any
 2363 [government] agency [thereof shall] of either must not be assessed, [for
 2364 any portion of such cost or construction;]
- 2365 [(d)] For a service drive, primary residential road, arterial road, business
 2366 district road or other road designation of higher traffic capacity, all costs
 2367 of construction shall be assessed to adjoining properties; provided, that
 2368 there is a rebuttable presumption of no benefit to any property which
 2369 meets all of the following conditions:
- 2370 (1) The property is (i) zoned residential and is not developed or
 2371 master planned for institutional, industrial or commercial use; or
 2372 (ii) a residential condominium or cooperative unit;
- 2373 (2) The property abuts a county-maintained, paved roadway of two
 2374 (2) lanes or greater capacity; and
- 2375 (3) The property is not zoned or master planned for zoning which
 2376 would permit subdivision into two (2) or more residential lots or
 2377 development for multiple-family use;]
- 2378 (e) [Assessments against properties for costs of construction or
 2379 reconstruction of roads undertaken by the county may be waived within
 2380 the boundaries of or as a part of] The Council may waive any
 2381 assessment in an urban renewal [projects] project, community
 2382 redevelopment [projects] project, [and] or neighborhood improvement
 2383 [projects] project [approved in the capital improvements program for
 2384 the purpose of eliminating blight and slums and preventing blight or
 2385 deterioration of a neighborhood or designated area].

2386 **49-53. Public hearing [required prior to authorization of construction and**
 2387 **assessment of benefits]; notice[; publication].**

2388 (a) Before any road construction [shall be] or assessment is authorized, the
 2389 County Executive or a designee must hold a public hearing [thereon
 2390 shall be held by the county executive or his designee]. Any [interested]
 2391 person who would be subject to an assessment or otherwise affected by
 2392 the location or construction of the road [shall be] is entitled to [appear
 2393 and] be heard at [such] the hearing. Notice of [such] the hearing [shall
 2394 must be sent by certified or registered mail, at least [two (2)] 2 weeks
 2395 before the scheduled date of the hearing, to the owners of [the] each
 2396 property that would be subject to an assessment, [for the proposed
 2397 construction] as listed in the records of the [department of finance]
 2398 Department of Finance.

2399 (b) [All notices] Each notice issued [pursuant to] under this [section shall]
 2400 Section must contain [the following]:

- 2401 (1) The time and place of the hearing;
- 2402 (2) The location of the construction which is the subject of the
 2403 hearing;
- 2404 (3) The extent and kind of construction intended;
- 2405 (4) The type of materials to be used;
- 2406 (5) The estimated cost of construction; and
- 2407 (6) [Identification] The location of the real property that [there is
 2408 reason to believe] will be benefited by the construction.

2409 (c) A summary of the notice provided for in this [section shall] Section
 2410 must be published twice in a newspaper of general circulation in the
 2411 County before the scheduled date of the hearing. [Such] The summary

2412 [shall include a statement indicating] must tell where a full copy of the
 2413 [text] notice may be obtained.

2414 **49-54. Authorization of construction; recommendation of assessments to**
 2415 **[council; contents] Council.**

2416 (a) If, after the hearing provided for in section 49-53, the [county executive
 2417 shall find] County Executive finds that the public interest requires [that]
 2418 all or part of any road construction project under consideration[, or any
 2419 portion thereof,] to be carried out, [he shall] the Executive must [, by
 2420 written order] authorize [such construction or portion thereof in
 2421 conformity with the county road construction code in force at the time]
 2422 the road to be built as required in this Chapter.

2423 (b) As soon as practicable after the [authorization of any] Executive
 2424 authorizes the road [construction pursuant to] under this Section, and
 2425 after the hearing held under Section 49-53, the [county executive shall]
 2426 County Executive must forward to the [county council] County Council
 2427 a written report recommending any proposed assessments based on the
 2428 estimated cost of [such construction] building the road. [Such] The
 2429 report [shall] must describe the work to be done and [shall] state, with
 2430 particularity, what portion of the cost of [such] the construction, if any,
 2431 [is recommended to] should be [borne] paid by the adjacent properties
 2432 and what portion, if any, of [such] the cost [is recommended to] should
 2433 be [borne] paid by the [county in accordance with the provisions of the
 2434 road construction code in force at the time] County under this Chapter.

2435 (c) [Such] The recommendations [shall] must be based [upon] on the actual
 2436 costs of [publication of] publishing notices, [the conduct of] conducting
 2437 hearings, advertising for bids, and engineering, and the anticipated costs
 2438 of financing to be incurred [prior to the passage of] before the Council

2439 adopts the assessment resolution [by the council]. [Such
 2440 recommendations for the assessment of costs shall] Each cost
 2441 assessment must be computed on the basis of linear frontage of [such]
 2442 adjacent properties, except as otherwise provided in this [article and in
 2443 the county road construction code in effect at the time] Chapter. The
 2444 report [shall] must also [contain an] estimate [of] the dollar amount [in
 2445 dollars] of the [portion of] cost share to be [borne] paid by [such]
 2446 adjacent properties.

2447 **49-55. Assessment of costs by [county council] County Council; appeals.**

2448 (a) Within [two hundred seventy (270)] 270 days [of acceptance of
 2449 completion of] after the County accepts any road [construction]
 2450 authorized and subject to assessments [pursuant to section] under
 2451 Section 49-54, the [county executive shall] County Executive must
 2452 forward [his] final recommendations for assessments to the [council]
 2453 Council. [Any] The Executive must include any adjustment to [prior]
 2454 previous estimates [of assessments necessitated by] resulting from the
 2455 actual costs of the project, including financing[, shall be included in the
 2456 executive's final recommendations].

2457 (b) Within [ninety (90)] 90 days after [receipt of] receiving these
 2458 recommendations, the [council shall] Council must approve or modify
 2459 the recommended assessments and [shall], by resolution, assess the
 2460 costs of the road project against the adjacent properties, [pursuant to the
 2461 county road construction code in force at the time and] subject to the
 2462 [limitations] limits of [section] Section 49-52. [Such assessments shall]
 2463 Each assessment must be computed on the basis of the linear frontage of
 2464 [such properties] each property, except as otherwise provided in
 2465 [section] Section 49-56 [and in the road construction code]. [Such]

2466 Each assessment [shall be] becomes final [upon adoption of] when the
 2467 Council adopts the resolution.]; provided, that any]

2468 (c) Any person aggrieved by [such] an assessment may appeal, within
 2469 [thirty (30)] 30 days after [the date of mailing of] the notice [thereof] is
 2470 mailed, to the [circuit court] Circuit Court for the [county] County. Any
 2471 party [to the proceedings] may appeal [from the] a decision of the
 2472 [circuit court] Circuit Court to the [court of special appeals] Court of
 2473 Special Appeals.

2474 **49-56. Assessment of corner lots.**

2475 [In all cases where] If the property to be assessed [for construction] is located
 2476 at the intersection of [two (2)] 2 or more streets [and is what is known as]
 2477 (hereinafter, a corner lot), the linear frontage of [such] each corner lot [to be]
 2478 assessed in connection with the construction of each adjacent street [adjacent thereto
 2479 shall] must be reduced to one-half of the total frontage of [such] that lot [upon] on the
 2480 street [which it is proposed to construct] to be built, but any [[such]] reduction [shall]
 2481 must not exceed [fifty (50)] 50 feet on any one [(1)] street. The portion of the cost of
 2482 the construction which would otherwise have been assessed to [such] a corner lot
 2483 [shall] must be added to the overall cost assessed to the remaining assessable frontage
 2484 of the whole project, [or may be paid for in whole or in] unless the Executive
 2485 authorizes the County to pay all or part [by the county].

2486 **49-57. Roads partly in unincorporated area and partly in city[,] or town[,
 2487 etc].**

2488 (a) Building roads.

2489 (1) [Whenever] If a road, bridge, storm drain, sidewalk, shared use
 2490 path, transitway, or other transportation facility [lies] is located
 2491 partly [within] in the unincorporated area of the county and partly
 2492 [within a city, town, village,] in a municipality or special taxing

2493 [[area]] district [of the county] that [has jurisdiction over the
 2494 construction or maintenance of] is authorized by law to build or
 2495 maintain that part of the [road] facility that is located in the
 2496 [incorporated area] municipality, either the County or the
 2497 municipality or special taxing district may improve the entire
 2498 [road may be constructed by the county or by the city, town,
 2499 village, or special taxing area] facility according to [the]
 2500 applicable County laws], ordinances, rules, and regulations for
 2501 construction of county roads] or [of “public ways”] any law or
 2502 regulation that applies in the [city, town, village,] municipality or
 2503 special taxing [[area]] district, respectively, as if the [road]
 2504 facility were [wholly within] completely located in the
 2505 unincorporated area of the county or [wholly within] in the [city,
 2506 town, village,] municipality or special taxing [[area]] district.

2507 (2) The [county executive] County Executive and the governing
 2508 body of the [city, town, village,] municipality or special taxing
 2509 [[area]] district must mutually consent to construct or improve
 2510 [such] the [road] facility [or public way], which consent may be
 2511 granted without regard to the laws [and ordinances] of the
 2512 [county] County or of the [city, town, village,] municipality or
 2513 special taxing [[area]] district regarding construction of roads [or
 2514 public ways] and assessment for the construction.

2515 (3) The County may build or improve a road, bridge, storm drain,
 2516 sidewalk, shared use path, transitway, or other transportation
 2517 facility which it is authorized by law to construct and maintain,
 2518 [[even if]] including when the facility is located partly or entirely
 2519 in a municipality or special taxing [[area]] district. Before taking

2520 any action under this paragraph, the Executive must consult each
 2521 affected municipality.

2522 (b) Assessing costs.

2523 (1) [Whenever] If the [county] County or any [city, town, village]
 2524 municipality or special taxing [[area]] district [in the county shall
 2525 authorize] authorized the construction of a road [or public way],
 2526 [and shall obtain] obtains the consent of the other [as provided in]
 2527 under subsection (a) [of this section], [and] assesses [the] its cost
 2528 [thereof] against abutting property on the basis of benefit to
 2529 [such] the abutting property, and [such] the assessment is made in
 2530 accordance with the laws[, ordinances, rules] and regulations of
 2531 the [county] County or [city, town, village] municipality or
 2532 special taxing [[area]] district levying [such] the assessment, any
 2533 property which abuts [such] the road or public way but which
 2534 [lies] is located in whole or in part in [such] the other[, whether
 2535 county or city, town, village or special taxing area] jurisdiction,
 2536 may be assessed for its proportionate share of the cost of
 2537 construction in the same manner as if the property [lay wholly
 2538 within] were located only in the [[county]] County or [city, town,
 2539 village] municipality or special taxing [[area]] district levying
 2540 [such] the assessment, as the case may be. [; provided however,
 2541 that upon any]

2542 (2) Any party [[upon]] on whom [such] an assessment may be levied
 2543 under this subsection may [protest or] appeal [such] the
 2544 assessment, in the same manner under the law of the [county, or
 2545 city, town, village or special taxing area] jurisdiction levying
 2546 [such] the assessment, as [may be] any other party [otherwise]

2547 entitled to [protest or] appeal under [such] its law. [; provided;
2548 however, that the city, town, village]

2549 (3) A municipality or special taxing ~~[[area]]~~ district may, in its
2550 discretion, pay all or part of the costs [so] assessed by the County
2551 against [the properties within its jurisdiction] any property
2552 located in it.

2553 (c) State roads. Nothing in this ~~[[section]]~~ Section [shall be construed to
2554 affect state roads] affects any State road, except to the extent that the
2555 [county] County participates in [payment of the cost of] paying any
2556 construction [pursuant to] cost under an agreement with the [state roads
2557 commission] State Highway Administration or any successor agency.

2558 **49-58. Payment of assessments; due date; interest and/or penalties;**
2559 **[deferral of] deferring payments.**

2560 (a) (1) [Assessments shall be] Any assessment under this Article is due
2561 and payable [upon adoption of] 30 days after the Council adopts
2562 the resolution levying the assessment. [and until] Until the
2563 assessment is paid, [shall be] the Director of Finance may attach
2564 a lien on the [real] property [upon] on which the assessment was
2565 levied.

2566 (2) The [county council] Council may provide in the resolution that
2567 [such] assessments may be paid in full at any time or in up to 20
2568 equal annual installments [not to exceed twenty (20)]. [All
2569 assessments shall] Each assessment must bear interest on the
2570 unpaid balance from the date [of such levy] the Council adopts
2571 the resolution at [a rate of interest per annum, which shall be] the
2572 interest rate paid by the [county] County on its bonds used [for

2573 the purpose of capital] to finance construction of the road, plus
 2574 one [(1)] percent.

2575 (3) The resolution [shall] must provide that all or any portion of the
 2576 assessment may be paid without interest within [ninety (90)] 90
 2577 days [from the date of] after the resolution levying the assessment
 2578 is adopted, or in equal annual installments [commencing] starting
 2579 on the July 1 [next following thirty (30)] at least 30 days after the
 2580 levy of the assessment. [, and such payments shall] Each payment
 2581 must include interest on the unpaid balance. Any annual
 2582 installment, together with the interest [thereon] on it, not paid on
 2583 or before the September 30 [following] after its due date, [shall
 2584 be] is overdue and [in arrears and shall] must be charged
 2585 additional interest and[/or] penalty at the [rate(s)] rate prescribed
 2586 by law for overdue [and in arrears ordinary] taxes on real
 2587 property for the full taxable year.

2588 (b) Notwithstanding the provisions of this [section] Section, the [county
 2589 council] Council may by resolution permit a taxpayer to defer the
 2590 payment of assessments for a period not to exceed [five (5)] 5 years,
 2591 subject to the following conditions:

2592 (1) The payment deferral [shall] must be provided only on
 2593 assessments connected with property which has been subject to
 2594 an increased [county] County property tax assessment resulting
 2595 directly from a government-initiated change in the zoning
 2596 classification of the property to a higher intensity use. A
 2597 government-initiated change in the zoning classification of
 2598 property is a change [[approved by the District Council or]]
 2599 proposed by the Planning Board.

- 2600 (2) The property connected with the assessment has been and [shall]
 2601 must be actually occupied by the taxpayer for residential
 2602 purposes. [and any] Any change in [such] use during the period
 2603 of payment deferral [shall operate to terminate] automatically
 2604 ends the deferral. [, the] Any deferred assessment and
 2605 accumulated interest [thereon] on it [shall] is then [become]
 2606 immediately due and payable.
- 2607 (3) The payment deferral [shall terminate] ends immediately [upon
 2608 transfer of the property by] when the owner of record listed on
 2609 the [assessment and] tax records [at the time] when the property
 2610 was rezoned [under circumstances described above, the] transfers
 2611 the property. Any deferred assessment and accumulated interest
 2612 [thereon] on it [shall] is then [become] immediately due and
 2613 payable.
- 2614 (4) The owner [has executed] must execute an agreement with the
 2615 [county agreeing] County to pay the balance of unpaid deferred
 2616 assessments and accumulated interest [thereon] on them
 2617 immediately [upon the transfer of ownership by said] if the
 2618 owner[, or upon the failure of] transfers ownership or does not
 2619 comply with any other condition [specified herein], or [upon the
 2620 expiration of] when the specified deferral period expires[,
 2621 whichever occurs first].
- 2622 (5) Interest on the unpaid balance of any deferred assessments [shall]
 2623 must accrue from the date of the deferral resolution at the rate
 2624 specified in [section] this Section [[49-58]].
- 2625 (6) A first lien [shall] must attach to the property for all deferred
 2626 assessments and accumulated interest [thereon] on them.

2627 [(7) The deferred payments of assessments authorized hereunder may
 2628 apply to any assessments levied after July 1, 1975, where the
 2629 property owner became eligible for the deferral of payments
 2630 under the conditions specified herein.]

2631 [(c) For purposes of this section, a government-initiated change in the
 2632 zoning classification of property shall be a change accomplished
 2633 through a filing and approval by the district council or the Maryland-
 2634 National Capital Park and Planning Commission.]

2635 **49-59. [Collection of] Collecting assessments; default in [payment of]
 2636 paying installments.**

2637 (a) [Assessments made hereunder shall] Any assessment under this Article
 2638 must be collected in the [manner in which ordinary taxes on] same way
 2639 as real property taxes are [now or hereafter may be] collected under [the
 2640 provision of the general and local laws of the state and the county] State
 2641 and County laws. Each annual installment due may be included on the
 2642 County tax bill, [issued by the county] or [it may be] billed separately,
 2643 as [determined by] the [director of finance] Director of Finance orders.

2644 (b) [Upon default in the payment of] If any person does not pay any annual
 2645 installment, including any interest and penalty due, the Director of
 2646 Finance may sell the property against which [any such] the assessment
 2647 has been made [shall be sold] at tax sale for the unpaid balance due on
 2648 the assessment, including [the] any interest [and/]or penalty due,
 2649 [thereon] in the same manner as real property is sold for nonpayment of
 2650 [ordinary] taxes, together with all other charges due [thereon], if any.

2651 **49-60. [Correction of] Correcting errors in assessments.**

2652 (a) [Whenever through error, inadvertence or oversight,] If any property
 2653 subject to assessment [has] was not [been] properly assessed, or [such]

2654 the assessment erroneously describes the property or is made in a wrong
 2655 name or in an erroneous amount, or [where service upon] if the property
 2656 owner [has] was not [been made] properly notified, the [council]
 2657 Council may, [upon the recommendation of the county executive] if the
 2658 County Executive so recommends or [upon its own discovery of such
 2659 error, inadvertence or oversight] on its own, correct the assessment by
 2660 [amendment of] amending the resolution.

2661 (b) [making the same] The Council may correct an error without further
 2662 notice to the affected property owner [affected thereby; provided, that
 2663 such property] if the owner had notice of the hearing conducted
 2664 [pursuant to section] under Section 49-53 and the error[, inadvertence or
 2665 oversight] did not occur [prior to] before the [date of such] hearing was
 2666 held and was not contained in any notice of the hearing.

2667 (c) [thereof, but if such] If the error[, inadvertence or oversight] occurred
 2668 [prior to such] before the hearing or was contained in any notice
 2669 [[thereof]] of the hearing, [it shall] the error must not be corrected
 2670 [unless] until [the] any affected property [owners affected by such
 2671 correction are] owner is given adequate notice and an opportunity to be
 2672 heard.

2673 **49-61. Borrowing and certificates of indebtedness.**

2674 The [county is hereby authorized] County may, by Council resolution [[of the
 2675 [council] Council]], [to] borrow [such sums] from time to time [upon] on its faith and
 2676 credit [as may be] any funds needed [for financing] to finance construction
 2677 authorized by this [article] Article, and [to] may issue its negotiable certificates of
 2678 indebtedness [therefore]. [Nothing in this article contained shall prevent or limit the
 2679 issuance by the county of bonds or other evidences of indebtedness for road or any

2680 other purposes pursuant to authority of any other laws heretofore or hereafter
 2681 enacted.]

2682 **Article [V] 6.**

2683 **Abandonment and Closing of [Roads and Drainage] Rights-of-Way.**

2684 **49-62. Abandonment authority; scope of [article] Article; procedures.**

- 2685 (a) *Authority.* The County Council [may], by adopting a resolution, may
 2686 close to public use or abandon the County's right to use any right-of-
 2687 way. As used in this Article, *right-of-way* means any road, street, alley,
 2688 crosswalk, pedestrian walkway, shared use path, water main, sanitary
 2689 sewer, storm sewer, or storm drainage right-of-way used at any time by
 2690 the public, including use by pedestrians and bicyclists. This Article
 2691 applies to all rights-of-way except State road rights-of-way, and may
 2692 apply to a State road right-of-way if the appropriate State agency
 2693 expressly consents. [[This Article does not apply to any temporary
 2694 closure required by a construction traffic control plan if the closure does
 2695 not last longer than 6 months.]] Before the Council adopts a resolution
 2696 under this Article, the procedures in this Article must be followed.
- 2697 (b) *Application.* Any person or government agency may file an application
 2698 with the Department of Public Works and Transportation to close or
 2699 abandon any right-of-way. In this Article, unless the context clearly
 2700 indicates otherwise, ["*Department*"] refers to the Department of Public
 2701 Works and Transportation.
- 2702 (c) *Fee.* Each applicant, except a County government agency, must pay
 2703 with the application a filing fee set by regulation under method (3) to
 2704 defray the cost of processing the application and holding a hearing.
- 2705 (d) *Notice to property owners.* After receiving an application under this
 2706 Article, the Department must promptly notify by certified mail each

2707 property owner listed in the County assessment records whose property
 2708 abuts the right-of-way proposed to be closed or abandoned. However,
 2709 the [failure of] fact that any property owner [to] did not receive a notice
 2710 under this Section does not invalidate an otherwise valid closing or
 2711 abandonment.

2712 (e) *Notice to public.* The Department must prominently post a notice of the
 2713 application in or adjacent to the right-of-way to be closed or abandoned.
 2714 The Department also must publish notice of the application once each
 2715 week for 2 successive weeks in a newspaper of general circulation in the
 2716 County. This notice, and those sent under subsection (d), must inform
 2717 recipients of the opportunity for a hearing and the date a hearing will be
 2718 held.

2719 (f) *Hearing.* The Executive or the Executive's designee must hold a
 2720 hearing on the application not earlier than 30 days after notice is mailed
 2721 under subsection (d).

2722 (g) *Executive's report; comments of government agencies and utilities.*
 2723 After the hearing held under this Section, the County Executive must
 2724 forward to the County Council the application, [and] a report based
 2725 [upon] on the record of the proceedings, and the Executive's
 2726 recommendation on the proposed abandonment or closing. The report
 2727 must state whether the government agencies [or governmental bodies]
 2728 and utilities listed in [this] subsection (h) have [consented to] endorsed
 2729 the proposal and the conditions, if any, of each agency's or
 2730 [governmental body's consent, if any] utility's endorsement. The
 2731 [County] Executive must not forward the report or recommendation
 2732 until the [County] Executive receives [recommendations] a response
 2733 from [the agencies] each agency or [governmental bodies] other party.

2734 If [the] an agency or [governmental body] other party does not [file its
 2735 recommendation] respond within 60 days [from the date of the
 2736 application] after notice is first published under subsection (e), the
 2737 County Executive must presume that the agency or [governmental body
 2738 consents to] other party does not oppose the proposal.

2739 (h) Agencies. The government agencies and other parties from which the
 2740 Executive must solicit a response are:

- 2741 (1) [The Director of] the Department of Public Works and
 2742 Transportation;
- 2743 (2) [The] the Maryland-National Capital Park and Planning
 2744 Commission[, if any part of the property is in the Maryland-
 2745 Washington Regional District in the County];
- 2746 (3) [The] the Washington Suburban Sanitary Commission, if any part
 2747 of the [property] right-of-way is located in the Washington
 2748 Suburban Sanitary District;
- 2749 (4) [All] each public utility [companies] authorized by the Public
 2750 Service Commission to operate [within] in the area and which
 2751 [have] has any overhead or underground facilities in the vicinity;
- 2752 (5) [The] the governing body of each incorporated [city, town]
 2753 municipality or special taxing [[area]] district in which any of the
 2754 [property may be] right-of-way is located;
- 2755 (6) The [department] [[Department of]] [police] Police Department;
 2756 [and]
- 2757 (7) [The Department of] the County Fire and Rescue [Services]
 2758 Service[.]; and

2759 (8) Any grantee of a franchise under Article 2, if the franchise
 2760 authorizes the grantee to install or use any facility in, over, or
 2761 under the affected right-of-way.

2762 (i) Temporary closure. This Article does not apply to any temporary
 2763 closure required by a construction traffic control plan if the closure does
 2764 not last longer than 12 months. If special circumstances require that a
 2765 temporary closure last longer than 12 months, the Director of Public
 2766 Works and Transportation must apply to the Council for approval to
 2767 extend the closure for a specified period that does not exceed 24
 2768 months. The Council by resolution may approve an extended
 2769 temporary closure under this subsection without following the
 2770 procedures in this Article.

2771 **49-63. Decision of [council] the Council.**

2772 (a) The [decision of the] Council must [be based on] consider the record of
 2773 the proceedings and the report and recommendations of the County
 2774 Executive, including [the] any recommendations of the government
 2775 agencies and [utilities referred to] other parties listed in Section 49-
 2776 62(h), and any other relevant and material information [received by] the
 2777 Council receives from any person [under subsection (b)].

2778 [(b) A Councilmember or Council staff member may visit the site of a right-
 2779 of-way that is proposed to be closed or abandoned. The
 2780 Councilmember or staff member must place on the record any
 2781 information received at or resulting from the visit which may affect a
 2782 Councilmember's decision. The Council may reopen the record at any
 2783 time before final action to receive information about a site visit or other
 2784 relevant materials. If the Council reopens the record under this

2785 subsection, the Council must notify each party and give that party a
 2786 reasonable opportunity to respond to any new information.]

2787 [(c) At any time before final action by the Council, any person who or
 2788 association which participated in person or in writing or by counsel at
 2789 the hearing may request, in writing, an opportunity to present oral
 2790 argument before the Council. The Council may, in its discretion, grant
 2791 or deny a request for oral argument. If the Council grants the request,
 2792 the Council must notify all parties to the proceedings and offer each
 2793 party an opportunity to participate in the oral argument, which must be
 2794 limited to information contained in the original hearing record or made
 2795 available under subsection (b).]

2796 [(d)] (b) The Council may at any time remand an application to the Executive
 2797 or the Executive's designee to reopen the record or consider new
 2798 information.

2799 [(e)] (c) A right-of-way may be abandoned or closed if the Council by
 2800 resolution finds that [the record indicates by a preponderance of the
 2801 evidence that]:

2802 (1) the right-of-way is no longer necessary for present public use or
 2803 anticipated public use in the foreseeable future, or

2804 (2) the abandonment or closing is necessary to protect the health,
 2805 safety and welfare of the residents [in the neighborhood of] near
 2806 the right-of-way to be abandoned or closed. In assessing health,
 2807 safety, and welfare issues, the Council may consider:

2808 (A) [the master] any adopted land use plan applicable to the
 2809 neighborhood;

2810 (B) safe and efficient pedestrian and vehicular traffic patterns
 2811 and flows, together with alternatives, in the immediate
 2812 neighborhood, for [both] local and through traffic; and

2813 (C) changes in fact and circumstances since the original
 2814 dedication of the right-of-way.

2815 [(f)] (d) A right-of-way which is the sole means of access to any property must
 2816 not be abandoned or closed.

2817 **49-64. Withdrawal of application.**

2818 (a) At any time [prior to] before the Council takes final action [by the
 2819 council] on the application, the applicant may request in writing that the
 2820 application be withdrawn.

2821 (b) [Such] The request [shall] must be made to the [county executive in the
 2822 event] County Executive if the [executive] Executive has not [yet]
 2823 forwarded the application to the [council] Council. If the Executive has
 2824 forwarded the application [has been forwarded] to the [council] Council,
 2825 the request [for withdrawal shall] must be made to the [council]
 2826 Council.

2827 [(c)] [In the event] If the request for withdrawal is [made prior to the
 2828 advertisement of] filed before the public hearing is advertised, the
 2829 County must refund the filing fee [required hereunder], less
 2830 administrative expenses, [shall be refunded by the county] to the
 2831 applicant.]]

2832 **49-65. [Records] Notice to Planning Board; filing subdivision plat.**

2833 (a) Not less than [thirty (30) days] 30 nor more than [sixty (60)] 60 days
 2834 [following] after the [adoption of] Council adopts the resolution [of the
 2835 council providing for] to approve an abandonment or closing [pursuant
 2836 to the provisions of this section], the [county attorney shall] Council

2837 Clerk must notify the [Montgomery County] Planning Board, the
 2838 Directors of Permitting Services and Public Works and Transportation,
 2839 and the County Attorney that the Council has authorized the
 2840 abandonment or closing. [is authorized by the council; and the county
 2841 attorney shall]

2842 (b) The Director of Permitting Services, after receiving a copy of the
 2843 Council resolution, must sign, on behalf of the [county] County, a plat
 2844 of subdivision prepared by the [petitioner] applicant, which the Planning
 2845 Board has [been] approved for recording, [by the planning board
 2846 providing for such] approving the abandonment or closing. [; or when]

2847 (c) [[If the filing of a subdivision plat is not appropriate, the]] [county
 2848 attorney shall] The County Attorney must cause to be recorded [among]
 2849 in the County land records [of the county, in due form for recording,]
 2850 the Council resolution [showing such] which approved the
 2851 abandonment or closing.

2852 (d) Any abandonment or road closure approved after July 1, 2007, is
 2853 automatically revoked by operation of law if each condition specified in
 2854 the approval resolution, including any later amendment to that
 2855 resolution, has not been completed within the time specified in the
 2856 resolution or, if the resolution did not specify a completion date, within
 2857 5 years after the Council approved the resolution or amended the
 2858 resolution to insert that condition.

2859 **49-66. Appeal from action of [council] the Council.**

2860 The action of the [council] Council on any application for abandonment or
 2861 closing [shall be] is final, subject to any Council procedure for reconsideration that
 2862 would otherwise apply. [; except, that within thirty (30) days after the date action is
 2863 taken by the council, any person] Any aggrieved [thereby] person may appeal the

2864 action of the Council approving or denying an abandonment or closing to the [circuit
2865 court] Circuit Court within 30 days after the Council takes the action.

2866 **49-67. Notice of abandonment or closure.**

2867 [Prior to] Before abandoning or closing any [road or] right-of-way [pursuant to
2868 action by the council] after Council approval under this [article] Article, the [county
2869 executive shall] Director of Public Works and Transportation must cause to be posted
2870 prominently in the area of the [road or] right-of-way [to be closed], for [a period of]
2871 at least [fifteen (15)] 15 days [immediately following adoption by] after the [council
2872 of the resolution of closure] Council action, a notice [that such road or] listing the
2873 date when the right-of-way [shall] will be abandoned or closed [and the date on
2874 which closing shall take place].

2875 **[49-67A] 49-68. [Abandonments] Abandonment of previously unused [road,
2876 drainage and other] rights-of-way.**

2877 (a) [When] If any [road, alley, crosswalk, pedestrian walkway, water main,
2878 sanitary sewer, storm sewer, or storm drainage] right-of-way, except a
2879 right-of-way located entirely in a municipality which has independent
2880 [[land use]] zoning and subdivision authority, has not been in public
2881 use, [an] one or more abutting [owner or] property owners may petition
2882 the Planning Board [for abandonment of] to abandon the [land] right-of-
2883 way. The petition must take the form of a preliminary [[plat]] plan for
2884 the subdivision of land, and must state the reason for the [request]
2885 proposed abandonment and show any proposed relocation or
2886 realignment of the right-of-way, where applicable.

2887 (b) The petitioner must notify:

2888 (1) [all persons having] each person with a recorded financial interest
2889 in land abutting the right-of-way;

2890 (2) the Department of Public Works and Transportation;

- 2891 (3) the [Department of] County Fire and Rescue [Services] Service;
- 2892 (4) the [Department of] Police Department;
- 2893 (5) the Washington Suburban Sanitary Commission, when
- 2894 applicable;
- 2895 (6) [all] each public utility [companies] operating [within] in the
- 2896 area; [and]
- 2897 (7) the governing body of each incorporated [city, town]
- 2898 municipality or special taxing [[area]] district which adjoins the
- 2899 [property] right-of-way sought to be abandoned;[.] and[[:]]
- 2900 (8) Any grantee of a franchise under Article 2, if the franchise
- 2901 authorizes the grantee to install or use any facility in, over, or
- 2902 under the affected right-of-way.

2903 [(b)] (c) The Planning Board must [obtain] solicit the comments of [these

2904 agencies, utility companies, or governmental bodies] each notice

2905 recipient, and then promptly determine whether:

- 2906 (1) the right-of-way previously was improved or used for the
- 2907 purposes for which it was intended or dedicated; and
- 2908 (2) the right-of-way is necessary for anticipated public use.

2909 (d) If a recipient of notice under subsection (b) does not respond within 60

2910 days after the notice is sent, the Planning Board must presume that the

2911 recipient does not oppose the proposal.

2912 [(c)] (e) If the Planning Board finds that the right-of-way is not necessary for

2913 anticipated future public use or that an alternative alignment or location

2914 will not adversely affect the public interest, the Board may authorize [by

2915 resolution that] the right-of-way [may] to be abandoned by

2916 incorporating the abandoned land into an amended plat of subdivision.

2917 The amended subdivision plat must [be approved in accordance with

2918 this Article, including] require the dedication of any land [required]
 2919 needed for rights-of-way, easements, and other public uses.

2920 **[49-68. Applicability of article.**

2921 This article shall apply to all public roads and storm drainage rights-of-way,
 2922 except state roads and storm drainage rights-of-way and that portion of roads and
 2923 rights-of-way.]

2924 **[49-68A. Reserved.]**

2925 **Article [VI] 7. Freeways and [Expressways] Controlled Major Highways.**

2926 **49-69. [Authority to establish, etc.; evidence of freeway or expressway;
 2927 public hearing; freeways and expressways defined] Reserved.**

2928 [(a) *Generally.* The county may lay out, establish and construct any existing
 2929 or proposed county road as a freeway or expressway. The county
 2930 executive may, by written regulation, designate that a proposed highway
 2931 is to be constructed as a freeway or expressway. Such regulation shall
 2932 be conclusive evidence that the road, when constructed, is a freeway or
 2933 expressway with all the characteristics and incidents prescribed by this
 2934 and the following five (5) sections.]

2935 [(b) *Public hearing.* In the event the county proposes to construct or
 2936 designate a road as a freeway or expressway and such road is not shown
 2937 as such on a duly adopted master plan of the Maryland-National Capital
 2938 Park and Planning Commission, the county shall hold a public hearing
 2939 on such proposal and shall forward the proposal to the Maryland-
 2940 National Capital Park and Planning Commission for its
 2941 recommendations. It shall cause to be advertised in a newspaper of
 2942 general publication thirty (30) days prior to the date set for a public
 2943 hearing, the time and place of such hearing and a general description of
 2944 the road or area to be designated as a freeway or expressway.]

2945 [(c) *Freeway.* A freeway is an expressway with full control of access. A
 2946 freeway is distinguished from all other expressways by the degree of
 2947 separation of crossroads and the manner of providing access. A freeway
 2948 has no cross traffic and points of access are suitably spaced only at
 2949 crossroads which are separated in grade or connected by right-turns only
 2950 and generally located and designed to provide safe and efficient access
 2951 appropriate for the traffic.]

2952 [(d) *Expressway.* An expressway is a divided arterial highway for through
 2953 traffic with full or partial control of access and generally with grade
 2954 separations at intersections. The distinction between an expressway and
 2955 the normal street or highway is the distance between crossings and
 2956 access connections. Whereas a major street may include numerous
 2957 private driveways, an expressway has none.]

2958 **49-70. [Authority to designate existing and new] Designating means of**
 2959 **[ingress and egress] access to certain highways.**

2960 (a) [The county may by resolution designate as a freeway or expressway all
 2961 or any portion of any county road theretofore laid out, adopted,
 2962 established and constructed, subject to the applicable provisions of the
 2963 preceding section.] A Freeway and Controlled Major Highway are
 2964 defined in Section 49-31.

2965 (b) [When] If any existing [county] County road is [designated] classified
 2966 as a [freeway or expressway, then] Freeway or Controlled Major
 2967 Highway:

2968 (1) The [county] Director of Public Works and Transportation may,
 2969 by agreement or condemnation, restrict or limit the right of any
 2970 owner of land abutting the [freeway or expressway] Freeway or
 2971 Controlled Major Highway to lay out or construct any new means

2972 of [ingress or egress] access to, from or across [such] the abutting
 2973 land to or from the [freeway or expressway] Freeway or
 2974 Controlled Major Highway or to enlarge or extend any existing
 2975 means of [ingress and egress, and the county] access. The
 2976 Director may, from time to time, designate points [at which]
 2977 where access [will be] is permitted, or permit changes in existing
 2978 means of access, consistent with any applicable master plan,
 2979 [upon such] on specified terms and conditions. [as they may
 2980 specify; and]

2981 (2) The [county] Director may close any existing means of [ingress
 2982 or egress] access to, from, or across abutting land to or from the
 2983 [freeway or expressway] Freeway or Controlled Major Highway
 2984 by agreement or condemnation, consistent with any applicable
 2985 master plan.

2986 **49-71. [Method and procedure of acquiring] Acquiring property for**
 2987 **[establishment or construction of freeways or expressways] Freeways or**
 2988 **Controlled Major Highways[, feeder roads, etc].**

2989 [For the construction of] To build any [freeway or expressway] Freeway or
 2990 Controlled Major Highway or [the establishment of] rebuild any portion of any
 2991 existing [county] road as a [freeway or expressway] Freeway or Controlled Major
 2992 Highway, or for any service or feeder [roads] road in connection with a [freeway or
 2993 expressway] Freeway or Controlled Major Highway, the [county] County may
 2994 acquire any real property or any interest in real property [in the same manner and] by
 2995 the same procedure as [such] property may [now or hereafter] be acquired for road
 2996 purposes.

2997 **49-72. [Regulation] Control of use and access.**

2998 When any road has been constructed or designated as a [freeway or
 2999 expressway] Freeway or Controlled Major Highway, the [county] Director of Public
 3000 Works and Transportation:

3001 (a) [May regulate,] may restrict or prohibit access to [such freeway or
 3002 expressway] the Freeway or Controlled Major Highway from any
 3003 existing highway, road, or street, or from any new highway, road, or
 3004 street, [; provided, however, that] if reasonable access to [such] the
 3005 freeway or expressway from any existing or [any] new highway, road,
 3006 or street[, shall be provided; and] is maintained;

3007 (b) [May regulate] may control, restrict, or prohibit the use of [such freeway
 3008 or expressway] the Freeway or Controlled Major Highway by various
 3009 classes of vehicles or traffic [provided] if an alternate route is provided
 3010 for [such] restricted or prohibited classes of vehicles or traffic; and

3011 (c) [May] may maintain, discontinue, abandon, or close, and exercise all
 3012 other powers with respect to [such freeways or expressways] Freeways
 3013 or Controlled Major Highways to the same extent and in the same
 3014 manner as [in the case of] other roads.

3015 **49-73. Access to [freeway or expressway] Freeway or Controlled Major**
 3016 **Highway where it divides property [held] under one ownership.**

3017 [Whenever in the establishment of a freeway or expressway,] If real property
 3018 held [under] by one [(1) ownership] owner is severed by [the freeway or expressway]
 3019 a Freeway or Controlled Major Highway, [then] the [county] Director of Public
 3020 Works and Transportation [, in its discretion,] may provide for access across the
 3021 [freeway or expressway] Freeway or Controlled Major Highway from one [(1)] such
 3022 tract to the other, either at grade or below or above grade, upon such conditions as [it
 3023 prescribes] prescribed. [No such] Any connecting road or roads [shall] must not be
 3024 used for or in connection with the conduct of any roadside business or enterprise. If

3025 [such tracts at any time cease to be] the affected land is no longer held under one
 3026 [(1)] ownership, the [county] Department may [terminate and] discontinue [such] any
 3027 access road, [or roads; provided, however, that in]

3028 In acquiring [lands, property, rights-of-way, franchises, easements and other]
 3029 property for [the purposes described] any purpose listed in the [four (4)] three
 3030 preceding sections, the [county shall] Director must fully [and properly acquaint]
 3031 inform the owners [thereof with] of the use and restrictions of [such] the property [as
 3032 outlined therein].

3033 **49-74. Right of [ingress or egress] access.**

3034 When a road is constructed as a [freeway or expressway] Freeway or
 3035 Controlled Major Highway, [no] an owner of land abutting the road or other person
 3036 [shall] must not have any right of [ingress or egress] access to, from, or across [such]
 3037 any abutting land to or from the [freeway or expressway] Freeway or Controlled
 3038 Major Highway. [The county in its discretion, at] At the time of the construction of
 3039 the [freeway or expressway] Freeway or Controlled Major Highway or thereafter, the
 3040 Director of Public Works and Transportation may designate points at which access
 3041 will be permitted, [upon such] on terms and conditions as [it] the Director may
 3042 specify from time to time.

3043 **49-75. [Adoption of regulations] Reserved.**

3044 [The county executive is authorized to adopt, under method (2) of section 1A-
 3045 15 of this Code, necessary regulations concerning freeways or expressways; such
 3046 may include, but not be limited to, further provisions for the establishment,
 3047 construction, use and access to freeways or expressways.]

3048 **Article [VII] 8. Rustic Roads Program.**

3049 **49-76. Purpose.**

3050 This Article [provides for] authorizes the identification and classification of
 3051 rustic roads in that part of the County [which is within] located in the Maryland-

3052 Washington Regional District. This Article establishes a program to preserve as
 3053 rustic roads those historic and scenic roadways that reflect the agricultural character
 3054 and rural origins of the County. Preservation of rustic roads [will] must be achieved
 3055 by retaining certain physical features of rustic roads and by certain right-of-way
 3056 maintenance procedures.

3057 **49-77. Definitions.**

3058 In this Article, the following terms have the meanings indicated:

3059 [(a)] *Committee* means the Rustic Roads Advisory Committee[;].

3060 [(b)] County Council means the County Council for Montgomery County,
 3061 Maryland sitting as a District Council for that portion of the Maryland-Washington
 3062 Regional District in Montgomery County;]

3063 [(c)] *Exceptional rustic road* means an existing public road or road segment
 3064 which is so classified under Section 49-78[;].

3065 [(d)] *Master Plan of Highways* means the Master Plan of Highways Within
 3066 Montgomery County, an amendment to the General Plan for the Physical
 3067 Development of the Maryland-Washington Regional District[;].

3068 [(e)] Planning Board means the Montgomery County Planning Board of the
 3069 Maryland- National Capital Park and Planning Commission; and]

3070 [(f)] *Public utility* means any private company or public agency that[:] [(1)]
 3071 is regulated as a public utility under [Article 78 of the Maryland Code;] state law, or
 3072 [(2)] otherwise provides water, sewer, electric, gas, telephone, or cable service (as
 3073 defined in Chapter 8A) in the County.

3074 [(g)] *Rustic road* means an existing public road or road segment which is so
 3075 classified under Section 49-78.

3076 **49-78. Rustic road classification and reclassification.**

3077 (a) *Classification.* The County Council may classify, reclassify, or revoke
 3078 the classification of an existing public road or road segment as a rustic

3079 road or an exceptional rustic road by [adopting] approving an
 3080 amendment to the Master Plan of Highways and the relevant area
 3081 Master Plan.

3082 (b) *Criteria for rustic road.* Before classifying a road as rustic, the
 3083 [County] Council must find that an existing public road or road
 3084 segment:

3085 (1) is located in an area where natural, agricultural, or historic
 3086 features are predominant, and where master planned land use
 3087 goals and zoning are compatible with a rural/rustic character;

3088 (2) is a narrow road intended for predominantly local use;

3089 (3) is a low volume road with traffic volumes that do not detract
 3090 significantly from the rustic character of the road; [and]

3091 (4) (A) has outstanding natural features along its borders, such as
 3092 native vegetation, stands of trees, stream valleys;

3093 (B) provides outstanding vistas of farm fields and rural
 3094 landscape or buildings; or

3095 (C) provides access to historic resources, follows historic
 3096 alignments, or highlights historic landscapes[.]; and

3097 (5) the history of vehicle and pedestrian accidents on the road in its
 3098 current configuration does not suggest unsafe conditions.

3099 The [County] Council must not classify a road as rustic if that
 3100 classification will significantly impair the function or safety of the
 3101 [roadway] road network.

3102 (c) *Criteria for exceptional rustic road.* The [County] Council may classify
 3103 an existing public road or road segment as an exceptional rustic road.
 3104 Before classifying a road as an exceptional rustic road, the [County]
 3105 Council must find that the road or road segment:

- 3106 (1) [is] qualifies as a rustic road under subsection (b) [of this
 3107 Section];
- 3108 (2) contributes significantly to the natural, agricultural, or historic
 3109 characteristics of the County;
- 3110 (3) has unusual features found on few other roads in the County; and
- 3111 (4) would be more negatively affected by improvements or
 3112 modifications to the physical characteristics of the road than
 3113 would most other roads in the rustic roads program.
- 3114 (d) *Significant features.* When the [County] Council classifies a road as a
 3115 rustic road or an exceptional rustic road, the Council must identify the
 3116 significant features of each such road that must be preserved when the
 3117 road is maintained or improved.
- 3118 [(e) (1) The County Council may by resolution designate all or part of
 3119 certain public roads as interim rustic roads and interim
 3120 exceptional rustic roads. Any road designated under this
 3121 subsection must be treated as if the County Council had so
 3122 classified the road under subsection (a) or (c).
- 3123 (2) The Advisory Committee must advise the Department of Public
 3124 Works and Transportation regarding the significant features of
 3125 roads designated under this subsection that must be preserved
 3126 when the roads are maintained or improved, or when a public
 3127 utility completes work on or near the roads. These significant
 3128 features have the same status as those the Council identifies
 3129 under subsection (d).
- 3130 (3) The Council may designate or withdraw a designation under this
 3131 subsection by resolution after a public hearing if:

- 3132 (A) the County Executive asks the Council to withdraw a
 3133 designation so that the road can be maintained or improved
 3134 in a manner not permitted by this Article;
- 3135 (B) the Advisory Committee asks the Council to designate a
 3136 road or withdraw a designation; or
- 3137 (C) a public utility asks the Council to withdraw a designation
 3138 so that the public utility can complete work along the road
 3139 in a manner not permitted by this Article.]

3140 **49-79. Maintenance and improvements.**

- 3141 (a) *County roads.* [Rustic roads] Each rustic road and exceptional rustic
 3142 [roads] road must be maintained and improved in a manner that
 3143 preserves the road's significant features which the Council identified [by
 3144 the County Council] under subsection 49-78(d), but this requirement
 3145 does not preclude improvements [for the purposes of] to promote safety
 3146 or movement of farm equipment. The County Executive must establish
 3147 guidelines by [Executive] regulation under method (2) for maintenance
 3148 and improvement of rustic roads and exceptional rustic roads.
- 3149 (b) *State and park roads.* The [County] Executive must encourage the
 3150 State Highway Administration and the [Montgomery] County Parks
 3151 Department to maintain and improve rustic roads owned by the State or
 3152 Park Commission in a manner consistent with this Article.
- 3153 (c) *Public utilities.* Public utility work on or near a rustic road or
 3154 exceptional rustic road is limited by this Article only when the work
 3155 will damage a structure identified as a significant feature of the road
 3156 which the Council identified under subsection 49-78(d). [A] Each
 3157 public utility must make all reasonable efforts to limit irreparable

3158 damage to [such] any significant [features] feature when working on or
 3159 near a rustic road or exceptional rustic road.

3160 (d) If this Article conflicts with [provisions of] Chapter 24A, [the
 3161 provisions of] Chapter 24A [apply] prevails.

3162 **49-80. Rustic Roads Advisory Committee.**

3163 (a) *Membership.* The County Executive must appoint, subject to
 3164 confirmation by the County Council, a Rustic Roads Advisory
 3165 Committee. The Committee has 7 voting members. Each member must
 3166 be a resident of the County. The [County] Executive should appoint:

3167 (1) 3 members who are owner-operators of commercial farmland
 3168 earning 50 percent or more of their income from farming, one of
 3169 whom is a representative of the Agricultural Advisory
 3170 Committee;

3171 (2) one member who [has knowledge of] knows rural preservation
 3172 techniques through practical experience and training;

3173 (3) one member who [has knowledge of] knows roadway
 3174 engineering through practical experience and training;

3175 (4) one member who represents civic associations located in the
 3176 Agricultural Reserve; and

3177 (5) one member who represents civic associations in areas located
 3178 outside the Agricultural Reserve where there are rustic roads.

3179 The Chairman of the Planning Board must designate a member of the
 3180 planning staff as a non-voting Committee member.

3181 (b) *Officers.* The Committee must elect a chair annually. The Committee
 3182 may select other officers annually as it finds appropriate. A member
 3183 must not serve as chair for more than 2 consecutive years.

- 3184 (c) *Meetings.* The Committee [meets] must meet at the call of the chair as
 3185 often as required to perform its duties, but at least 6 times each year.
 3186 The Committee must also meet if two-thirds of the voting members
 3187 request in writing that a meeting be held. The Chair must give
 3188 reasonable advance notice of all meetings to members of the Committee
 3189 and the [general] public. A majority of the members are a quorum to
 3190 transact business.
- 3191 (d) *By-laws.* The Committee may [establish] adopt by-laws to govern its
 3192 activities.
- 3193 (e) *Duties.* The Committee must:
- 3194 (1) promote public awareness and knowledge of the County rustic
 3195 roads program [in the County];
 - 3196 (2) review and comment on classification of rustic roads and
 3197 exceptional rustic roads;
 - 3198 (3) review and comment on Executive Regulations and other County
 3199 policies and programs that may affect the rustic roads program;
 3200 and
 - 3201 (4) report on June 1 of each even numbered year to the [County]
 3202 Executive, the [County] Council, and the Planning Board on the
 3203 status of the rustic roads program.
- 3204 (f) *Staff.* The [County Executive] Chief Administrative Officer must
 3205 provide the Committee with staff, offices, and supplies as are
 3206 appropriated for it.

3207 **Article 9. Pedestrian and Traffic Safety Advisory Committee.**

3208 **49-81. Pedestrian and Traffic Safety Advisory Committee.**

- 3209 (a) Definition. In this Section “Committee” means the Pedestrian and
 3210 Traffic Safety Advisory Committee.

3211 **(b) Established.** The County Executive must appoint, subject to
 3212 confirmation by the County Council, a Pedestrian and Traffic Safety
 3213 Advisory Committee.

3214 **(c) Composition and terms of members.**

3215 **(1) The Committee has 17 members.**

3216 **(2) The Executive must appoint a representative from each of the**
 3217 following departments as members:

3218 **(A) the Police Department;**

3219 **(B) the Department of Public Works and Transportation; and**

3220 **(C) one of the Regional Services Centers.**

3221 **(3) The Executive must invite a representative from each of the**
 3222 following agencies to serve as members:

3223 **(A) the County Council;**

3224 **(B) the County Planning Board;**

3225 **(C) the Montgomery County Public Schools; and**

3226 **(D) the State Highway Administration**

3227 **(4) The Executive must appoint one member representing a**
 3228 municipality from a list provided by the County chapter of the
 3229 Maryland Municipal League. The Executive must appoint one
 3230 member representing advocates of bicycling.

3231 **(5) The Executive must appoint the remaining individuals from**
 3232 different geographic areas of the County.

3233 **(6) The term of each member is 3 years. After an appointment to fill**
 3234 a vacancy before a term expires, the successor serves the rest of
 3235 the unexpired term.

3236 **(d) Voting, officers, meetings, and compensation.**

3237 **(1) All members of the Committee are voting members.**

- 3238 (2) The Executive must designate a member of the Committee as
 3239 Chair for one 2-year term.
- 3240 (3) The Committee meets at the call of the Chair. The Committee
 3241 must meet as often as necessary to perform its duties, but not less
 3242 than 4 times each year.
- 3243 (4) A member must serve without compensation. However, a
 3244 member may request reimbursement for mileage and dependent
 3245 care costs at rates established by the County.
- 3246 (e) Duties. The Committee must:
- 3247 (1) advise the Executive and Council on the status of the
 3248 implementation of the recommendations in the Pedestrian Safety
 3249 Final Report, issued in 2002;
- 3250 (2) advise the Executive and Council of priorities and needs for
 3251 pedestrian and bicycle safety and access, and other pedestrian-
 3252 related issues; and
- 3253 (3) continue to gather information on pedestrian safety and other
 3254 pedestrian-related issues and identify new issues that emerge.
- 3255 (f) Annual Report. By November 1 each year, the Committee must submit
 3256 to the Executive and the Council an annual report on its functions,
 3257 activities, accomplishments, and plans and objectives.
- 3258 (g) Advocacy. The Committee must not engage in any advocacy activity at
 3259 the State or federal levels unless that activity is approved by the Office
 3260 of Intergovernmental Relations.
- 3261 (h) Staff. The Chief Administrative Officer must provide appropriate staff
 3262 to the Committee.

3263 **Sec. 2. Chapter 32 is amended by inserting Section 32-20A as follows:**

3264 **32-20A. Hitchhiking in street or highway.**

3265 A person must not stand or walk in the main-traveled portion of any public
 3266 street or highway to solicit a ride from the driver or occupant of any vehicle. Any
 3267 violation of this Section is a class C violation.

3268 **Sec. 3. Regulations.**

3269 (a) The County Executive must adopt and submit to the County Council,
 3270 not later than ~~[(date [[120 days]] 12 months after enactment of bill)]~~
 3271 July 15, 2008 ~~[[,]]~~;

3272 (1) regulations that revise all road construction standards and
 3273 specifications to be consistent with ~~[[County Code Sections 49-~~
 3274 ~~34A]] Article 3 of Chapter 49~~, as amended by Section 1 of this
 3275 Act, and

3276 (2) regulations that include any applicable requirement for speed
 3277 humps under Section ~~[[49-33B]] 49-30~~, as amended by Section 1
 3278 of this Act.

3279 The Council may by resolution extend these deadlines if compelling
 3280 circumstances warrant. Until the regulations required by this Section
 3281 take effect, any regulations and County design standards in effect when
 3282 this Act became law continue in effect until otherwise amended or
 3283 repealed.

3284 (b) In drafting the regulations required to implement Article 3 of Chapter
 3285 49, the County Executive must actively seek the advice of the County
 3286 Planning Board and affected stakeholders, including representatives of
 3287 motorists, pedestrians, bicyclists, transit users, engineering consultants
 3288 and other experts, environmental advocates, and businesses located in
 3289 the County.

- 3290 (c) The Executive must submit progress reports to the Council on the
3291 development of these regulations on September 1, 2007; January 1,
3292 2008, and April 1, 2008.
- 3293 (d) If the Council has not approved all applicable regulations, or allowed all
3294 applicable regulations to take effect without Council action, by the later
3295 of 90 days after the Council receives the applicable regulation or 90
3296 days after the deadline for the Executive to submit the regulation under
3297 subsection (a), the design standards in the table below must govern the
3298 construction or reconstruction of any County road, except Rustic Roads
3299 and Exceptional Rustic Roads, until the Council approves all applicable
3300 regulations.

3301

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

| | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------|---------------------------------------------------------------------|-------------|---------------------------------------------------------------|
| | <u>mph</u> rural: 35 mph ⁷ | <u>lanes</u> rural: 11' lanes | <u>15'</u> | | |
| <u>Business District Street</u> ¹ | <u>25 mph</u> | <u>urban: 10'</u> <u>lanes</u> <u>elsewhere: 11'</u> <u>lanes</u> | <u>urban: 15'</u> <u>min.</u> <u>elsewhere:</u> <u>15'</u> | <u>none</u> | <u>10'</u> |
| <u>Industrial Street</u> ¹ | <u>25 mph</u> | <u>urban: 10'</u> <u>lanes</u> <u>elsewhere: 11'</u> <u>lanes</u> | <u>urban: 15'</u> <u>min.</u> <u>elsewhere:</u> <u>15'</u> | <u>none</u> | <u>5'</u> |
| <u>Country Road</u> | <u>25 mph</u> | <u>20' road</u> | | <u>none</u> | <u>suburban:</u> <u>5'</u> <u>rural:</u> <u>none</u> |
| <u>Primary and Principal</u> <u>Secondary Residential</u> <u>Streets</u> <u>(no curbs or parking)</u> <u>(w/curbs, no parking)</u> ⁵ <u>(w/curbs, 1-side parking)</u> ⁵ <u>(w/curbs, 2-side parking)</u> ⁵ | <u>25 mph</u> | <u>20' road</u> <u>22' road</u> <u>28' road</u> <u>34' road</u> | <u>15'</u> | <u>3'</u> | <u>5'</u> |
| <u>Secondary Residential</u> <u>Street</u> <u>(no curbs, no parking)</u> <u>(w/curbs, no parking)</u> <u>(w/curbs, 1-side parking)</u> <u>(w/curbs, 2-side parking)</u> | <u>20 mph</u> | <u>20' road</u> <u>20' road</u> <u>20' road</u> <u>24' road</u> | <u>15'</u> | <u>none</u> | <u>4'</u> |
| <u>Tertiary Residential Street</u> | <u>20 mph</u> | <u>20' road</u> | <u>12'</u> | <u>None</u> | <u>4'</u> |
| <u>Alley</u> | <u>15 mph</u> | <u>urban (2-way):</u> <u>20' road</u> | <u>None</u> | <u>None</u> | <u>none</u> |

| | | | | | |
|--|--|---------------------------------------------------------------------------------|--|--|--|
| | | <u>urban (1-way):</u> <u>16' road</u> <u>suburban: 16'</u> <u>road</u> | | | |
|--|--|---------------------------------------------------------------------------------|--|--|--|

- 3302 (1) Add 1 foot of width to each lane abutting an outside curb. Except in urban areas, add
 3303 another 2 feet of width to each lane abutting an outside curb if a shared-use roadway is
 3304 consistent with the Countywide Bikeways Functional Master Plan or the applicable area
 3305 master or sector plan.
- 3306 (2) Bike lanes must be included when a road is constructed or reconstructed if bike lanes are
 3307 consistent with the Countywide Bikeways Functional Master Plan or the applicable area
 3308 master or sector plan. This bike lane width replaces the added width under note (1).
- 3309 (3) For an open-section Controlled Major Highway, Major Highway or Country Arterial add 5
 3310 feet of width on each road edge for a paved shoulder. A bike lane replaces this additional
 3311 width.
- 3312 (4) For an open-section Arterial or Minor Arterial add 4 feet of width beyond the edge of the
 3313 outside lane for a paved shoulder. If a bike lane is provided on a road edge, the bike lane
 3314 replaces this additional width.
- 3315 (5) For a Primary or Principal Secondary Residential Street, the total curb-to-curb width must
 3316 be the sum of the road width and any master-planned bike lane widths.
- 3317 (6) Curbside width is the area beyond each curb necessary for sidewalks, shared use paths,
 3318 street trees and other landscaping, streetlights, utilities, and other elements. For an open
 3319 section road or street, the area beyond the shoulder is shown in the design standards adopted
 3320 under Chapter 49.
- 3321 (7) Target speed for these classifications in suburban and rural commercial zones is 30 mph.
- 3322 (8) Sidewalks are required on both sides of any road or street, as indicated on this table, except
 3323 Secondary and Tertiary Residential Streets, where the Planning Board may require a
 3324 sidewalk on either or both sides of a street, depending on the area's housing density and the
 3325 potential uses of the sidewalks. An alley must not have any sidewalks.
- 3326 (9) Trees may be planted in a median if the design speed of the road does not exceed 40 miles
 3327 per hour. The median must be at least:

3328 (1) 8 feet wide to accommodate trees that will grow to no more than a 4-inch diameter at
3329 maturity; and

3330 (2) 12 feet wide to accommodate any tree that will grow larger than a 4-inch diameter at
3331 maturity.

3332 (10) A landscape panel abutting a closed-section road must extend at least 5 feet from the curb
3333 and be at least 8 feet long. Trees planted in landscape panels along 'urban' roads must be at
3334 least 30 feet apart unless the tree spacing is interrupted by a public street or driveway.

3335 (11) Each newly built or reconstructed street must retain or filter the following amounts of
3336 stormwater on-site during a 24-hour period: 1/2-1" in an 'urban' area; at least 2" in a
3337 'suburban' area; and at least 3" in a 'rural' area.

3338 **Sec. 4. Continuity and sunset of Pedestrian and Traffic Safety Advisory**
3339 **Committee.** Section 49-81 establishes a Pedestrian and Traffic Safety Advisory
3340 Committee. This Committee continues the Pedestrian Safety Advisory Committee,
3341 created under Council Resolution 14-1281 and extended under Council Resolution
3342 16-192. The County Executive must allow the members of the Pedestrian Safety
3343 Advisory Committee to continue to serve the remainder of their terms as members of
3344 the Pedestrian and Traffic Safety Advisory Committee. The Executive must continue
3345 to stagger the terms of the members of the Pedestrian and Traffic Safety Advisory
3346 Committee so that approximately one-third of the terms of these members continue
3347 to expire each year. Section 49-81 expires on August 31, 2012.

3348 *Approved:*

3349

3350

Marilyn J. Praisner, President, County Council

Date

3351 *Approved:*

3352

3353

Isiah Leggett, County Executive

Date

Major Elements of the Community Road Code

Bill 48-06, Subdivision Regulation Amendment 06-04

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 bills would guide the development of Executive regulations setting standards for new and reconstructed roads and streets that in turn 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 generally 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).
- 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 to be 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.

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. The bills 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 the bills are 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 bills promote sidewalks and shared-use paths in several ways. It would guide the development of Executive regulations that 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 bills promote street trees several ways. It would guide the development of Executive regulations that 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. *Abandonments and road closures*

The bills 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 and permanent road closures "on the record", meaning the ex parte rule will not apply.
- require traffic control plans for temporary street or sidewalk closures due to construction activity, expressly allowing the County to require a covered walkway in some cases.

