



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, December 3, 2019

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 9:35 A.M. on Tuesday, December 3, 2019.

PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Alborno
Councilmember Evan Glass
Councilmember Nancy Navarro

Councilmember Tom Hucker, Vice President
Councilmember Andrew Friedson
Councilmember Will Jawando
Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

The invocation was given by Father Ebuka Mbanude, Holy Redeemer Catholic Church, Kensington.

COMMENTS BY COUNCIL PRESIDENT NANCY NAVARRO

Ms. Navarro expressed thanks to her family, colleagues, staff, and community advocates who worked with her during her presidency. A video was presented highlighting the Council's activities and accomplishments under her leadership, including the adoption of racial equity and social justice legislation and the CROWN Act; introduction of community policing legislation, adoption of the County's \$5.8 billion budget; the continuation of the County's Triple-A bond rating for the 46th consecutive year; the opening of the Wheaton Library and Recreation Center; the adoption of the Veirs Mill Corridor Master Plan; and the introduction of the County Economic Development Platform.

ELECTION OF COUNCIL OFFICERS

Ms. Navarro called for nominations for Council President. Mr. Rice nominated Mr. Katz for Council President. There were no other nominations.

Unanimously elected Mr. Katz as the second Council President of the nineteenth Council.

Mr. Katz called for nominations for Council Vice President. Ms. Navarro nominated Mr. Hucker for Council Vice President. There were no other nominations.

Unanimously elected Mr. Hucker as the second Vice President of the nineteenth Council.

Adopted **Resolution 19-315**, naming Mr. Katz to serve as the second President of the nineteenth Council, and Mr. Hucker to serve as the second Vice President of the nineteenth Council.

On behalf of the Council, Mr. Katz presented a commemorative gavel to Ms. Navarro in recognition of her service as President of the Council.

The Council recessed at 9:57 A.M. and reconvened at 10:06 A.M.

COMMENTS BY COUNCIL PRESIDENT SIDNEY KATZ

Mr. Katz expressed thanks to his colleagues, family, and staff for their support. Noting the vibrancy, diversity, and excellent schools in the County, he stated he would work to encourage businesses to locate here to help expand the economy and tax base; work with all public safety departments and first responders to ensure the safety of residents; prioritize support for Montgomery County Public Schools (MCPS), and work to address the needs of the growing senior population, while acknowledging the need to do more with less to reduce the County's debt. He expressed thanks to the many nonprofit organizations in the County that provide services to the community.

GENERAL BUSINESS

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

There were no agenda or calendar changes.

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

No petitions were received this week.

C. **Approved** the minutes of November 12, 2019, without objection.

(2) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

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

- A. **Introduced** a resolution urging the federal government to prevent nuclear war. Action is tentatively scheduled for December 10, 2019.
- B. **Introduced** a resolution to approve end-of-year transfer for FY19 County Government Operating Budget. Action is tentatively scheduled for December 10, 2019.
- C. **Introduced** a resolution to authorize filing of grant application to Metropolitan Washington Council of Governments (COG) for the 2019 Enhanced Mobility Program. A Transportation & Environment (T&E) committee worksession is tentatively scheduled for December 5, 2019.
- D. **Introduced** a special appropriation to the County Government's FY20 Operating Budget, Bethesda Urban District - \$60,000 for Pike District Placemaking Study. A public hearing/action is scheduled for December 10, 2019.
Mr. Albornoz requested to be added as a co-sponsor.
- E. **Received and Released** the Office of Legislative Oversight (OLO) Report 2019-14, MCPS Performance and Opportunity Gaps. An Education and Culture (E&C) Committee worksession is tentatively scheduled for December 5, 2019.
- F. **Adopted Resolution 19-316**, confirming the County Executive's appointments to the Commission on Landlord-Tenant Affairs: Lawrence Cullen, Amit Sharma.
- G. **Adopted Resolution 19-317**, confirming the County Executive's appointments to the Remembrance and Reconciliation Commission: Sheila Bashiri, Alexa Fraser, Jason Green, Robert McGarrah, Jacqueline Peng, Aisha Satterwhite, Alonzo Smith, Jeanne Toungara, Timothy Tutt, Michael Williams.

(3) **ACTION - Confirmation of Director, Department of Technology Services (DTS): Gail Roper**

Adopted **Resolution 19-318**, confirming the County Executive's appointment of Ms. Gail Roper as Director, DTS.

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

(4) **DISTRICT COUNCIL SESSION**

Mr. Katz announced that a public hearing is scheduled for January 14, 2020, at 7:30 P.M. on the Germantown Plan for the Town Sector Zone.

Mr. Katz announced that a public hearing is scheduled for January 14, 2020, at 1:30 P.M. on Corrective Map Amendment: H-130 for the Takoma Park Master Plan.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #28**

(5) **Introduction of Bills**

A. **Bill 37-19, Economic Development Fund - Use of Fund and Remedies for Noncompliance**

Introduced draft #4 of **Bill 37-19**, sponsored by Councilmember Glass and co-sponsored by Councilmember Riemer. A public hearing is scheduled for January 14, 2020, at 1:30 P.M.

Mr. Jawando requested to be added as a co-sponsor.

B. **Bill 38-19, Streets and Roads - Permit to Obstruct Public Rights-of-Way - Amendments**

Introduced draft #4 of **Bill 38-19**, sponsored by Councilmember Friedson and co-sponsored by Councilmembers Glass and Jawando. A public hearing is scheduled for January 14, 2020, at 1:30 P.M.

Councilmembers Riemer, Albornoz, Hucker, Rice and Katz requested to be added as co-sponsors.

C. **Bill 39-19, Contracts and Procurement - Local Small Business Reserve Program (LSBRP) - Amendments**

Introduced draft #6 of **Bill 39-19**, sponsored by Councilmember Jawando. A public hearing is scheduled for January 14, 2020, at 1:30 P.M.

Councilmembers Rice, Navarro, Albornoz, Glass, Hucker, and Katz requested to be added as co-sponsors.

D. **Expedited Bill 40-19, Inspector General - Staff - Amendments**

Introduced draft #1 of **Expedited Bill 40-19**, sponsored by Councilmembers Navarro, Friedson, and Katz. A public hearing is scheduled for January 14, 2020, at 1:30 P.M.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #28 (continued)**

(6) **Call of Bills for Final Reading**

A. **Bill 14-19, Police - Policing Advisory Commission - Established**

Mr. Katz, Chair of the Public Safety (PS) Committee, reviewed the Committee's recommendations, as contained in the staff report. Mr. Riemer, providing background information, noted that legislative changes are needed at the State level to improve Montgomery County Police Department (MCPD) disciplinary policies.

Mr. Hucker requested Executive Branch staff provide a memo regarding the appointment process.

Supported Mr. Jawando's motion to restore language specifying that each Councilmember would nominate one member. Mr. Rice, Mr. Friedson, and Mr. Katz were opposed.

Approved without objection Mr. Friedson's motion to add the following subparagraph after line 38 of the bill:

(d) The public members appointed under paragraph (c) must participate in the Montgomery County Police Department Citizens Academy.

Approved without objection Mr. Glass's motion to amend lines 21-19 of the bill, subparagraph (c)(4), to read:

(4) The public members appointed under paragraphs (2) and (3) should:

(A) reflect a range of ethnicities, socioeconomic status, and places of origin to reflect the racial and economic diversity of the County's communities, including religious creed, age, [[gender, sexual orientation,]] sex - including on the basis of gender identity or orientation, disability, and

geographic location, with emphasis on those disproportionately impacted by inequities; and

(B) have an interest or expertise in policing matters.

Considered Mr. Riemer's motion, which was seconded by Mr. Jawando, to make Commissioners eligible for pay. Councilmembers commented on the precedent that would be set, fiscal implications, and the need to consider the issue holistically. After discussion, and with Mr. Jawando's approval, Mr. Riemer withdrew his motion.

Enacted draft #7 of **Bill 14-19**, as amended and shown at the end of these minutes.

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

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

B. **Bill 36-18, Transportation Management - Transportation Demand Management Plan - Amendments**

Mr. Conklin, Director, and Ms. Brecher, Chief, Commuter Services, Department of Transportation (DOT); and Dr. Orlin, Council Deputy Director, participated in the discussion.

Mr. Hucker, Chair of the T&E Committee, reviewed the Committee's recommendation as contained in the staff report. Mr. Conklin provided an overview of the legislation, which would expand the County's use of transportation demand management (TDM) to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote sustainability of existing and future development. Supported without objection Mr. Glass's motion to amend **Bill 36-18** as follows:

On lines 174-175:

[5](7) promoting, [[or]] implementing, and improving existing transit and ridesharing incentives;

On lines 180-183:

~~[(8)](10) conducting surveys, studies, and statistical [analysis] analyses to determine the effectiveness of [traffic mitigation] and improvements needed to advance transportation demand management plans and employer and building owner efforts.~~

And add a new subsection after line 290 of the bill, as follows:

(f) Transportation Demand Management Plan for the Montgomery County Government.

(1) The Director of the Office of Human Resources, after consulting with the Director of Transportation, must submit a TDM Plan for County employees to the Chief Administrative Officer with a copy to the Council.

(2) The TDM Plan must include incentives, policies, or outreach needed to increase the number of County employees commuting to work through modes other than driving an automobile.

Supported without objection Mr. Riemer's motion to approve amendments to the bill recommended by DOT to address climate change as one of the rationales in the Findings and Purposes section of the bill; delete references to the "sample menu of TDM strategies"; and to change the date by which the DOT Director must recommend corrective action if goals are not met to June 30, [2027] 2028.

Enacted draft #10 of **Bill 36-18**, as amended and shown at the end of these minutes.

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

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

The meeting recessed at 12:16 P.M. and reconvened at 1:40 P.M.

(7) **PUBLIC HEARING - Zoning Text Amendment (ZTA)19-08, Bicycle Parking - Requirements and Design Standards**

The public hearing was conducted. Mr. Hucker, Mr. Jawando and Ms. Navarro were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on January 2, 2020. A Planning,

Housing and Economic Development (PHED) Committee worksession is tentatively scheduled for January 16, 2020.

(8) **PUBLIC HEARING - [Bill 35-19, Personnel - Collective Bargaining - Certified Representative - Duty of Fair Representation](#)**

The public hearing was conducted. Mr. Hucker, Mr. Jawando and Ms. Navarro were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on January 13, 2020. A PHED Committee worksession is tentatively scheduled for January 16, 2020.

(9) **INTERVIEWS - [Merit System Protection Board \(MSPB\)](#)**

Interviewed Ms. Sonya Chiles, Ms. Caryn Hines, and Mr. Michael Kator, applicants for appointment to the MSPB. Mr. Hucker and Mr. Jawando were temporarily absent.

The meeting recessed at 2:01 P.M. and reconvened at 7:34 P.M.

(10) **PUBLIC HEARING - [Bill 34-19, Taxation - Development Impact Taxes - Affordable Housing - Housing Impact Fairness Act](#)**

The public hearing was conducted. Mr. Riemer was temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on January 10, 2020. A GO Committee worksession is tentatively scheduled for January 16, 2020.

The meeting adjourned at 9:17 P.M.

This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 14-19
 Concerning: Police – Policing Advisory Commission - Established
 Revised: 12/3/2019 Draft No. 8
 Introduced: June 18, 2019
 Enacted: December 3, 2019
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Riemer
 Co-Sponsors: Councilmembers Jawando, Hucker, and Glass

AN ACT to:

- (1) create and specify the membership and duties of a Policing Advisory Commission;
- (2) generally amend County law relating to policing and boards, commissions, and committees.

By adding

Montgomery County Code
 Chapter 35, Police
 Section 35-6

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:

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

35-6. [Reserved] Policing Advisory Commission.

- (a) Definitions. In this Section the ~~[[follow]]~~ following words have the meanings indicated:
 - Commission means the Policing Advisory Commission.
 - Department means the Montgomery County Police Department.
- (b) Established. County Council must appoint a Policing Advisory Commission.
- (c) Composition and terms of members.
 - (1) The Commission has 13 members.
 - (2) The Council should appoint 9 public members ~~[[with an interest in policing matters]]~~. Each member should represent a community organization operating in the County or be an individual. ~~[[Each Councilmember should nominate one member.]]~~ Each Councilmember should nominate one member.
 - (3) The Council should appoint 4 public members nominated by the Executive. Of these members:
 - (A) one member should be 25 years of age or younger at the time of appointment; and
 - (B) one member should be 26-35 years of age at the time of appointment.
 - (4) The public members appointed under paragraphs (2) and (3) should:
 - (A) reflect a range of ethnicities, socioeconomic status, and places of origin to reflect the racial and economic diversity of the County's communities, including religious creed, age, ~~[[gender, sexual orientation,]]~~ sex - including on the basis of gender identity or orientation, disability, and geographic location, with emphasis on those disproportionately impacted by inequities; and
 - (B) have an interest or expertise in policing matters.
 - (5) The Council should appoint the following as non-voting ex officio members:
 - (A) the Police Chief or the Police Chief's designee; and
 - (B) ~~[[a representative]]~~ the President of an employee organization certified under Article V of Chapter 33 or the President's designee.
 - ~~[[5]]~~ (6) The term of each member is 3 years. After an appointment to fill a vacancy before a term expires, the successor serves the rest of the unexpired term.
- (d) Citizens Academy participation. The public members appointed under paragraph (c) must participate in the Montgomery County Police Department Citizens Academy.
- (e) Voting, officers, meetings, and compensation.
 - (1) Except the ex officio members, all members of the Commission are voting members.
 - (2) The ~~[[Council]]~~ Commission must ~~[[designate the]]~~ elect a Chair and Vice-Chair from among its voting members.
 - (3) The Commission meets at the call of the Chair. The Commission must meet as often as necessary to perform its duties, but not less than 6 times each year.
 - (4) A member must serve without compensation. However, a member may request reimbursement for mileage and dependent care costs at rates established by the County.
- ~~[[e]]~~ (f) Duties. The Commission must:
 - (1) advise the Council on policing matters;
 - (2) provide information regarding best practices on policing matters;
 - (3) recommend policies, programs, legislation, or regulations;
 - (4) comment on matters referred to it by the Council;
 - (5) conduct at least one public forum each year for community input on policing matters;
[[and]]
 - (6) accept correspondence and comments from members of the public; and
 - (7) engage in public education.
- ~~[[f]]~~ (g) Requests for information. The County, including the Police Department, should respond to Commission requests for information within 30 days after the County receives the request.
- ~~[[g]]~~ (h) Annual Report. By July 1 each year, the Commission must submit to the Executive and the Council an annual report on its functions, activities, accomplishments, and plans and objectives.
- ~~[[g]]~~ ~~[[h]]~~ (i) Advocacy. The Commission must not engage in any advocacy activity at the State or federal levels unless that ~~[[activities]]~~ activity is approved by the Office of Intergovernmental Relations.
- ~~[[h]]~~ ~~[[i]]~~ (j) Staff. The Executive Director of the Office of the County Council must provide appropriate staff to the Commission.

Sec. 2. Transition.

Notwithstanding paragraph (d)(2), the Council must designate the Chair and Vice-Chair until the Commission elects the Chair and Vice-Chair.

Bill No. 36-18
 Concerning: Transportation Management –
 Transportation Demand Management Plan -
 Amendments
 Revised: December 3, 2019 Draft #11
 Introduced: November 13, 2018
 Enacted: December 3, 2019
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the Request of the County Executive

AN ACT to:

- (1) expand transportation demand management to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote the sustainability of existing and future development;
- (2) establish the requirements for a transportation demand management plan for development in certain areas of the County; and
- (3) update the law governing transportation management in the County.

By amending

Montgomery County Code
 Chapter 42A, Ridesharing and Transportation Management
 Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29, and 42A-30

By adding

Montgomery County Code
 Chapter 42A, Ridesharing and Transportation Management
 Sections 42A-31 and 42A-32

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:

Sec. 1. Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29, and 42A-30 are amended and Sections 42A-31 and 42A-32 are added as follows:

42A-21. Definitions.

In this Article, unless the context indicates otherwise:

Alternative work hours program means any system that shifts the workday of an employee so that the workday starts or ends outside of a peak period, including:

- (1) compressed workweeks;
- (2) staggered work hours involving a shift in the set work hours of an employee at the workplace; or
- (3) flexible work hours involving individually determined work hours under guidelines established by the employer.

Bundling of parking means a requirement by the seller or lessor that a prospective purchaser or tenant purchase or lease a minimum number of parking spaces in the facility as a precondition to buying or leasing space or renewing a lease in a commercial or residential building. Bundling of parking does not include:

- (1) the provision of parking spaces as a component of a sale or lease when voluntarily requested by a prospective purchaser or lessee; or
- (2) a parking space physically integrated with an individual leasable or sales unit if the parking space is dedicated to that unit and can be directly accessed through that unit such that only occupants of that unit are able to use the space or spaces.

Carpool means a motor vehicle occupied by 2 or more employees traveling together.

Commute means a home-to-work or work-to-home trip. A commute may have brief intervening stops, but the primary purpose must be travel between work and home.

Date of final occupancy means the earlier of:

- (1) the date on which 80 percent of a building or project has been leased or sold; or
- (2) two years after the first final use and occupancy certificate has been issued.

Department means the Department of Transportation.

Director means the Director of the Department of Transportation or the Director’s designee.

District means a transportation management district created under this Article.

Employee means a person hired by an employer, including a part-time or seasonal worker or a contractor, reporting to or assigned to work on a regular basis at a specific workplace controlled by that business or organization, including a teleworker.

Employer means any [public or private] business or government entity, including the County, employing 25 or more [employees and having a permanent place of business] employees including contractors ~~[[at]] assigned to a worksite~~ ~~[[within]]~~ [in] ~~[[a district]]~~. [The maximum number of employees on the largest shift working in a district determines the size of the employer.] Employer does not include:

- (1) a [contractor, business, or government entity with no permanent place of business in a district] home-based business;
- (2) [a home-based business;
- (3)] a business with no employees housed at that work site;

40 [(4) any business with no permanent workplace or location:] or

41 [(5)] (3) any government agency not required by law to follow County regulations.

42 [Growth Policy means the most recently adopted Growth Policy under Section 33A-15.]

43 NADMS goal means the specific NADMS percentage goal for peak period commuters in a District or a
44 Policy Area that has been established though a Master Plan, through the Subdivision Staging Policy, or
45 through regulation.

46 Non-Auto Driver Mode Share or NADMS means the percent of commuters who travel by modes other than
47 driving an automobile. NADMS includes commuters who travel by transit, vanpool, biking, walking, or
48 connecting to the workplace electronically. NADMS does not include carpool or vanpool drivers, but it
49 does include carpool and vanpool passengers.

50 *Peak period* means the hours of highest transportation use [[in a district]] each workday, as defined in the
51 resolution creating a [[district]] District, as established in the Subdivision Staging Policy, or established
52 through a technical study.

53 *Planning Board* means the Montgomery County Planning Board of the Maryland-National Capital Park
54 and Planning Commission.

55 Policy Area means a Transportation Policy Area adopted by the County Council through the Subdivision
56 Staging Policy.

57 Project-based TDM Plan means a TDM plan for a new development project.

58 Resident means an adult domiciled in the relevant area.

59 *Single-occupancy vehicle* means a motor vehicle occupied by one employee for commuting purposes, other
60 than a two-wheeled vehicle.

61 Subdivision Staging Policy means the most recent policy adopted under Section 33A-15.

62 *Telework* means a work arrangement where a manager directs or permits an employee to perform usual job
63 duties away from the central workplace in accordance with established performance expectations and
64 agency-approved or agreed-upon terms.

65 Traffic Mitigation Plan or TMP means a set of strategies designed to implement TDM at an existing
66 commercial or residential building or by an employer in an existing building.

67 Transportation demand management or TDM means any method of reducing demand for road capacity,
68 especially during a peak period, including an alternative work hours program, carpools, vanpools,
69 subsidized transit [pass] passes, preferential parking for carpools or vanpools, improved bicycle and
70 pedestrian access and safety, public transportation, and [or peak period] a parking charge, or other parking
71 management strategies.

72 Transportation Demand Management Plan or TDM Plan means a set of strategies designed to implement
73 TDM for a new or existing building, a new or existing development project, or an employer.

74 *Transportation management organization* means a public, nonprofit private, or public-private firm,
75 corporation, or instrumentality created or contracted to manage or coordinate transportation demand
76 management programs.

77 *Vanpool* means a [van occupied by at least 8 employees traveling together] vehicle that has the capacity for
78 6 or more passengers in addition to the driver if:

- 79 (1) passengers occupy 50% or more of the seats at any point during the trip; and
- 80 (2) the vehicle is used to transport employees between their residences, designated locations,
- 81 and their place of employment for 80% or more of the miles the vehicle is driven.

82 *Workplace* means the place of employment, base of operations, or predominant location of an employee.

83 **42A-22. Findings and purposes.**

- 84 (a) New economic development is important to stimulate the local economy. Focusing new
- 85 development in high transit-service areas is an important County land use and economic
- 86 development objective.
- 87 (b) Limited transportation infrastructure, traffic congestion, inadequate access to transit, bicycle and
- 88 pedestrian [access] facilities, and safety issues impede the County’s land use and economic
- 89 development objectives.
- 90 (c) Transportation demand management, in conjunction with adequate transportation facility review,
- 91 planned capital improvement projects, and parking and traffic control measures, will:
 - 92 (1) help provide sufficient transportation capacity to achieve County land use objectives and
 - 93 permit further economic development;
 - 94 (2) reduce the demand for road capacity, [and] promote [traffic] safety for all users of
 - 95 transportation infrastructure, and improve access to transit, bicycle and pedestrian
 - 96 [access] facilities; and
 - 97 (3) help reduce vehicular emissions, energy consumption, and noise levels, and help address
 - 98 climate change.
- 99 (d) Improved traffic levels and air quality, and a reduction in ambient noise levels will help create
- 100 attractive and convenient places to live, work, visit, and conduct business.
- 101 (e) Transportation demand management will equitably allocate responsibility for reducing single-
- 102 occupancy vehicle trips among government, developers, employers, property owners, ~~[[renters]]~~
- 103 tenants, and the public.
- 104 (f) Transportation demand management should be consistent with any commuting goals set in the
- 105 [Growth] Subdivision Staging Policy, Master Plans, and Sector Plans. TDM should [and] foster
- 106 coordinated and comprehensive government, private industry, and public action to:
 - 107 (1) make efficient use of existing transportation infrastructure;
 - 108 (2) increase transportation capacity as measured by numbers of people transported;
 - 109 [(2)] (3) reduce existing and future levels of traffic congestion by moving more people in fewer
 - 110 vehicles;
 - 111 [(3)] (4) reduce air and noise pollution, and address climate change; and
 - 112 [(4)] (5) promote traffic safety together with transit, [and] pedestrian and bicycle safety and access
 - 113 for all users.
- 114 (g) Transportation demand management will substantially advance public policy objectives.
- 115 Adoption of this Article is in the best interest of the public health, safety, and general welfare of
- 116 the County.

117 **42A-23. Districts; authority of the Department and Planning Board.**

- 118 (a) The County Council by resolution may create a transportation management district [in] (TMD)
 119 [[in a policy area where]] in Red, Orange, or Yellow Policy Areas as defined in the Subdivision
 120 Staging Policy [[requires transportation review]]. A district may be formed from all, or portions
 121 of one or more [[Subdivision Staging]] Policy areas, even if they are not contiguous. [:
 122 (1) a Metro station policy area, which may include adjacent areas served by the same
 123 transportation network; or
 124 (2) an area where transportation review applies under the Growth Policy.]
 125 (b) The Department may take actions necessary to achieve effective transportation demand
 126 management in each [[district]] District, on its own or by contract with any employer,
 127 transportation management organization, or other party, including:
 128 (1) [[regulating]] controlling the use of or limiting public parking, by regulation adopted
 129 under method (2);
 130 (2) prohibiting bundling of parking in new developments;
 131 (3) monitoring and assessing traffic patterns and pedestrian access and safety;
 132 [[3]] (4) adopting traffic and parking control measures;
 133 [[4]] (5) providing transit, shuttles, circulator services, or other transportation services;
 134 (6) implementing approved transportation-related capital projects;
 135 [[5]] (7) promoting, [[or]] implementing, and improving existing transit and ridesharing
 136 incentives;
 137 [[6]] (8) promoting regional cooperation between the County and other government agencies;
 138 [[7]] (9) creating cooperative County-private sector programs to increase ridesharing and transit
 139 use; and
 140 [[8]] (10) conducting surveys, studies, and statistical [analysis] analyses to determine the
 141 effectiveness of [traffic mitigation] and improvements needed to advance transportation
 142 demand management plans and employer and building owner efforts.
 143 (c) In each [[transportation management district]] District, sole source contracts may be signed with,
 144 or funds granted to, one or more transportation management organizations to carry out
 145 transportation demand management programs that the Department could otherwise carry out,
 146 under Chapter 11B.
 147 (d) The Department and the Planning Board may, in accordance with this Article and other applicable
 148 law, jointly or separately impose transportation demand management measures as conditions on
 149 the Board's approval of development in any [[district]] District.
 150 (e) Each [[district]] District may have a Transportation Management District Advisory Committee if
 151 the Executive by regulation decides a Committee is necessary to carry out this Article or if the
 152 Council creates a Committee by resolution. The Executive or Council may designate any existing
 153 advisory body appointed by the Executive and confirmed by the Council to serve as a
 154 Transportation Management District Advisory Committee. The Executive must appoint, and the
 155 Council must confirm, members of any Advisory Committee. The County must not compensate
 156 members of an Advisory Committee for their services. Advisory Committee members, not

157 otherwise public employees as defined in Chapter 19A, are not subject to the financial disclosure
158 provisions of that Chapter.

159 **42A-24. [Traffic mitigation plans] Transportation Demand Management Plans for Employers.**

160 (a) Transportation Demand Management (TDM) [[Plans]] Plan for an Individual Employer.

161 (1) The Director must require an employer subject to this Section to submit a TDM Plan
162 meeting the requirements of this Section [If an employer is subject to this Section, and]
163 [[if the Council by resolution or in the [Growth] Subdivision Staging Policy has approved
164 the use of traffic mitigation plans or TDM Plans in a given]] [[district]] District[, the
165 Director must notify the employer by letter that the employer must submit a traffic
166 mitigation plan meeting the requirements of this Section].

167 [(b)] (2) Upon written request from the Director, an employer [[within a [[district]] District]] must
168 provide the Director with the number of full-time and part-time employees working for
169 that organization [[at any]] by workplace [[within the district]] in each Policy Area or
170 District.

171 (3) An employer [who employs 25 or more employees in a district at any time within one
172 year before receiving notice under subsection (a)] must submit a [traffic mitigation plan]
173 TDM Plan to the Director if:

174 (A) the employer is in a Red Policy Area under the Subdivision Staging Policy and
175 has 25 or more employees reporting to or assigned to that workplace;

176 (B) the employer is in an Orange Policy Area under the Subdivision Staging Policy
177 and has 100 or more employees reporting to or assigned to that workplace;

178 (C) the employer is in a Yellow Policy Area under the Subdivision Staging Policy
179 and has 200 or more employees reporting to or assigned to that workplace; or

180 (D) the employer is in one of the following [[districts]] Districts and has 25 or more
181 employees reporting to or assigned to a workplace:

182 Silver Spring TMD

183 Friendship Heights TMD

184 Bethesda TMD

185 North Bethesda TMD

186 Greater Shady Grove TMD

187 [[White Oak TMD]].

188 [(c)] (4) The [traffic mitigation plan should] TDM Plan must be consistent with and contribute to
189 the achievement of any NADMS Goal or other commuting goals set in the [Growth]
190 Subdivision Staging Policy, Master Plans, Sector Plans, and any individual project-based
191 goals or [[interim]] goals established in the regulations implementing this Article. The
192 TDM Plan must include strategies required by regulation and other strategies selected by
193 the employer from those permitted by regulation or proposed by the employer and
194 approved by the Director. A [traffic mitigation plan] TDM Plan may include an
195 alternative work hours program, carpool or vanpool incentives, subsidized transit passes,

196 preferential parking for carpools and vanpools, parking management strategies, peak
197 period or single-occupancy vehicle parking charges, improved transit, bicycle and
198 pedestrian access and safety, telework, and other transportation demand management
199 measures approved by the Director.

200 [(d)] (5) Each employer must submit its [traffic mitigation plan] TDM Plan within 90 days after
201 receiving written notice from the Director that it is required [under subsection (a)]. The
202 Director may extend an employer's time to file a [traffic mitigation plan] TDM Plan for
203 good cause.

204 [(e)] (b) Consolidated Employer Transportation Demand Management Plans.

205 (1) An employer may submit a consolidated [traffic mitigation plan] TDM Plan with other
206 employers in the same building or building complex. An owner of a nonresidential
207 building in a [[district]] District may submit a consolidated [traffic mitigation plan] TDM
208 Plan on behalf of one or more employers in the building.

209 (2) A consolidated plan must be designed so that the action it requires satisfies this Section
210 for employers covered by the plan and complies with the regulations implementing this
211 Section.

212 [(f)] (c) Actions and assistance to be provided. The Director must:

- 213 (1) offer to help employers prepare TDM Plans;
214 (2) decide if each proposed plan meets the requirements of this Section; and
215 (3) help an employer revise a plan that the Director determines does not meet the
216 requirements of this Section.

217 (d) Resubmission of TDM Plan. The Director may require an employer to resubmit a plan that the
218 Director finds inadequate to achieve any Non-Auto Driver Mode Share goals or other commuting
219 goals [[for that district]]. Once a plan has been approved, the Director must not require an
220 employer to submit a revised plan that meets the requirements of this Section more than once
221 every two years.

222 (e) Annual TDM Plan report. An employer must submit a report on strategies used to implement a
223 TDM Plan, including progress achieved under that plan, to the transportation management
224 organization and the Director on a schedule established by the Director.

225 (f) Transportation Demand Management Plan for the Montgomery County Government.

226 (1) The Director of the Office of Human Resources, after consulting with the Director of
227 Transportation, must submit a TDM Plan for County employees to the Chief
228 Administrative Officer with a copy to the Council.

229 (2) The TDM Plan must include incentives, policies, or outreach needed to increase the
230 number of County employees commuting to work through modes other than driving an
231 automobile.

232 [(1)] The Director may require an owner of a nonresidential building in a district to submit a
233 traffic mitigation plan if:

- 234 (A) the Director finds that a plan is necessary to achieve the purpose of this Article
- 235 because of the owner's control of parking or common space or for similar
- 236 reasons; and
- 237 (B) the Director notifies the owner of the building under subsection (a).]
- 238 [(2) As specified in the notice, the owner's plan may cover all or some employers in the
- 239 building. A plan submitted under this subsection may be in addition to one an individual
- 240 employer must submit.]
- 241 [(3) After receiving notice under this Section, an owner must submit a traffic mitigation plan
- 242 that meets the requirements applicable to an employer.]
- 243 [(g) (1) The Director may require an owner of a residential building or complex with at least 100
- 244 dwelling units, including a common ownership community as defined in Chapter 10B, in
- 245 a district to submit a traffic mitigation plan if:
- 246 (A) the Director finds that a plan is necessary to achieve the purpose of this Article
- 247 because of the owner's control of parking or common space or for similar
- 248 reasons; and
- 249 (B) the Director notifies the owner of the building under subsection (a).
- 250 (2) After receiving notice under this Section, an owner of a residential building must submit
- 251 a traffic mitigation plan that meets the requirements applicable to an employer.]
- 252 [(h) The Director must offer to help employers and owners prepare traffic mitigation plans.]
- 253 [(i) The Director must:
- 254 (1) decide if each proposed plan meets the requirements of this Section; and
- 255 (2) help the employer or owner revise a plan which does not meet the requirements.]
- 256 [(j) The Director may require an employer or owner to resubmit a plan that is not consistent with any
- 257 commuting goals set in the Growth Policy. The Director must not require an employer to submit a
- 258 plan that meets the requirements of this Section more than once every 2 years. An employer must
- 259 submit a report on transportation management measures used to implement a traffic mitigation
- 260 plan to the transportation management organization based on a schedule the Director sets.]
- 261 **42A-25. [Traffic mitigation agreements] Transportation Demand Management Plans for Existing**
- 262 **Buildings.**
- 263 [(a) Any proposed subdivision or optional method development in a district must be subject to a traffic
- 264 mitigation agreement if the Planning Board and the Director jointly decide, under standards
- 265 adopted by the Council for the adequacy of public transportation, that more transportation
- 266 facilities or transportation demand management measures are necessary to meet any commuting
- 267 goals set in the Growth Policy.]
- 268 [(b) A traffic mitigation agreement must specify transportation demand management measures that the
- 269 applicant or a responsible party must carry out. The measures must be calculated to ensure that
- 270 public transportation will be adequate to meet commuting goals set in the Annual Growth Policy.]
- 271 [(c) A traffic mitigation agreement may require:
- 272 (1) naming a transportation coordinator;

- 273 (2) limits on parking spaces;
- 274 (3) peak period or single-occupancy vehicle parking charges;
- 275 (4) preferential parking for carpools and vanpools;
- 276 (5) subsidies for employees not using single-occupancy vehicles;
- 277 (6) financial or other participation in building or operating on- or off-site transportation
- 278 facilities or systems;
- 279 (7) providing space on a periodic basis for marketing and promotional activities of the
- 280 district;
- 281 (8) designating permanent areas in prominent locations to display information on commuting
- 282 options; or
- 283 (9) other transportation demand management measures.]
- 284 [(d) A traffic mitigation agreement must be:
- 285 (1) agreed to by the applicant, the Department, and the Planning Board;
- 286 (2) made an express condition of any approval for subdivision under Chapter 50 or optional
- 287 method development under Chapter 59;
- 288 (3) subject to all other review and approval requirements of Chapter 50 and Chapter 59; and
- 289 (4) recorded in the County’s land records.]
- 290 [(e) A traffic mitigation agreement may:
- 291 (1) require adequate financial security, including bonds, letters of credit, or similar
- 292 guarantees;
- 293 (2) bind future tenants of the development; and
- 294 (3) specify liquidated damages, specific performance, or other contractual remedies, as
- 295 appropriate.]
- 296 [(f) The Department must enforce the terms of each traffic mitigation agreement. This does not limit
- 297 the Planning Board’s authority to revoke or otherwise enforce any approvals for subdivision under
- 298 Chapter 50 or optional method development under Chapter 59.]
- 299 (a) Transportation Demand Management (TDM) Plans for Existing Non-residential Buildings.
- 300 (1) The Director may require an owner of a nonresidential building in a [[district]] District to
- 301 submit a TDM Plan if:
- 302 (A) the Director finds that a plan is necessary to achieve the purpose of this Article;
- 303 and
- 304 (B) the building is not subject to either a traffic mitigation agreement currently in
- 305 effect or a Project-based TDM Plan under Section 42A-26.
- 306 (2) If an existing non-residential building is subject to this Section, the Director must notify
- 307 the building owner that a TDM plan meeting the requirements of this Section must be
- 308 submitted. As specified in the notice, the owner’s plan may cover all or some employers
- 309 in the building. A plan submitted under this subsection may be in addition to one an
- 310 individual employer must submit.

311 (3) After receiving notice under this Section, an owner must submit a TDM Plan meeting the
312 requirements established in the Executive Regulations for approval by the Director.

313 (b) Transportation Demand Management (TDM) Plans for Existing Multi-Unit Residential Buildings.

314 (1) The Director may require an owner of a residential building or complex with at least 100
315 dwelling units in a [[district]] District, including a common ownership community as
316 defined in Chapter 10B, to submit a TDM Plan if:

317 (A) the Director finds that a plan is necessary to achieve the purpose of this Article;
318 and

319 (B) the building is not subject to either a traffic mitigation agreement currently in
320 effect or to a Project-based TDM Plan under Section 42A-26.

321 (2) If an existing multi-unit residential building is subject to this Section, the Director must
322 notify the building owner(s) that a TDM Plan meeting the requirements of this Section
323 must be submitted.

324 (3) After receiving notice under this Section, the owner(s) must submit a TDM Plan that
325 meets the requirements established in the Executive Regulations for approval by the
326 Director.

327 (c) Actions and assistance to be provided. The Director must:

328 (1) offer to help building owners prepare TDM Plans;

329 (2) decide if each proposed plan meets the requirements of this Section; and

330 (3) help the building owner(s) revise a plan which does not meet the requirements.

331 (d) Resubmission of TDM Plan. The Director may require a building owner to resubmit a plan that
332 the Director finds inadequate to achieve any Non-Auto Driver Mode Share goals or other
333 commuting goals [[for that district]]. Once a plan has been approved, the Director must not
334 require a building owner to submit a revised plan that meets the requirements of this Section more
335 than once every two years.

336 (e) Annual TDM Plan report. A building owner must submit a report on strategies used to implement
337 a TDM Plan, and progress on achievement of goals under that plan, to the transportation
338 management organization and the Department based on a schedule established by the Director.

339 **42A-26. [Annual survey] Transportation Demand Management Plans for New Development Projects**
340 **(Project-based TDM Plans).**

341 [(a) The Director, after consulting the appropriate Advisory Committee, must schedule an annual
342 commuter survey, unless the Director determines that a less frequent plan is appropriate.]

343 [(b) The Director, after consulting the appropriate Advisory Committee, must prepare a survey that
344 generates information to:

345 (1) create an accurate data base of employee commuting patterns in the district; and

346 (2) monitor progress toward reaching any commuting goals set in the Growth Policy.]

347 [(c) The Department must distribute the survey to employers based on a schedule the Director sets.
348 Each notified employer must distribute, collect, and return the completed surveys to the
349 transportation management organization within 45 days after receiving the surveys.]

350 [(d) An employer must make a good faith effort to generate survey responses from employees with the
351 objective of achieving at least an 80 percent compliance rate.]

352 (a) Applicability. This Section applies to any owner or applicant for a new development or
353 construction project that submits an application for a proposed subdivision or optional method
354 development, site plan, conditional use or building permit in a [[district]] District, but excluding
355 any project consisting solely of single family detached housing, townhouses, or a mixture of both.
356 All such applicants must obtain approval from the Department for a Project-based Transportation
357 Demand Management (TDM) Plan. This approval must be obtained prior to [[Planning Board
358 approval of the application, or prior to Department of Permitting Services approval for projects not
359 requiring Planning Board action]] the issuance of any building permit by the Department of
360 Permitting Services. Projects subject to this Section include developments:

- 361 (1) in a Red, Orange or Yellow Subdivision Staging Policy Area and larger than the
362 minimum sizes shown in subsection (b);
- 363 (2) that do not have a fully-executed traffic mitigation agreement in effect; and
- 364 (3) where the Department decides, under standards adopted by the Council for the adequacy
365 of transportation, including Non-Auto Driver Mode Share goals and other commuting
366 goals adopted in Master Plans, Sector Plans and the Subdivision Staging Policy, that
367 more transportation facilities or transportation demand management measures are
368 necessary to meet the County's commuting goals.

369 (b) Levels of Project-based TDM Plans. An owner or applicant for a new development or
370 construction project may be required to submit a Level 1 TDM Basic Plan, a Level 2 TDM Action
371 Plan, or a Level 3 TDM Results Plan based on the size and location of the project as follows:

- 372 (1) An owner or applicant for a project located in a Red Policy Area under the Subdivision
373 Staging Policy must:
 - 374 (A) submit a Level 1 TDM Basic Plan for a project with [[at least 25,000 gross
375 square feet, but]] less than or equal to [[100,000]] 40,000 gross square feet; and
 - 376 (B) submit a Level 3 TDM Results Plan for a project with more than [[100,000]]
377 40,000 gross square feet;
- 378 (2) An owner or applicant for a project located in an Orange Policy Area under the
379 Subdivision Staging Policy must:
 - 380 (A) submit a Level 1 TDM Basic Plan for a project with at least [[50,000]] 40,000
381 gross square feet, but less than or equal to [[100,000]] 80,000 gross square feet;
 - 382 (B) submit a Level 2 TDM Action Plan for a project with more than [[100,000]]
383 80,000 gross square feet, but less than or equal to [[200,000]] 160,000 gross
384 square feet; and
 - 385 (C) submit a Level 3 TDM Results Plan for a project with more than [[200,000]]
386 160,000 gross square feet;
- 387 (3) An owner or applicant for a project located in a Yellow Policy Area under the
388 Subdivision Staging Policy must:

- 389 (A) submit a Level 1 TDM Basic Plan for a project with at least ~~[[75,000]] 60,000~~
- 390 gross square feet, but less than or equal to 150,000 gross square feet; and
- 391 (B) submit a Level 2 TDM Action Plan for a project with more than 150,000 gross
- 392 square feet.
- 393 (4) If an adopted Master Plan or Sector Plan requires a higher Level of Project-based TDM
- 394 Plan, those Master Plan or Sector Plan requirements override those described in
- 395 paragraphs (1), (2), or (3).
- 396 (5) An owner or applicant for a project with a gross square feet size disproportionate to its
- 397 impact on traffic (e.g., large floor area warehouses with lower impacts; small floor area
- 398 food or beverage establishments with higher impacts) may be required to adhere to a
- 399 Project-based TDM Plan Level that is either lower or higher than otherwise required by
- 400 its size and location, in accordance with the development approval and consistent with
- 401 the Executive Regulation implementing this Article.
- 402 (c) Components of Project-based TDM Plans. The components of each Project-based TDM Plan
- 403 Level are described in detail in the Executive Regulation adopted to implement these provisions.
- 404 Each plan must include the components listed below and in the Executive Regulation. The plan
- 405 must be submitted by the owner or applicant and approved by the Department. Any owner or
- 406 applicant may choose to comply with the requirements for a higher Level of Project-based TDM
- 407 Plan.
- 408 (1) Level One: A Project-based TDM Basic Plan is not required to include specific project-
- 409 based strategies other than providing information, but must implement County-led
- 410 strategies at the Project and must include:
- 411 (A) Appointment of a Transportation Coordinator and Commitment to Cooperate
- 412 with the Department's Programs. Each owner of a project must designate an
- 413 individual responsible to assist and cooperate with the Department's efforts to
- 414 achieve the Non-Auto Driver Mode Share goals and other traffic mitigation and
- 415 commuting goals ~~[[established for that area]]~~. This assistance must include
- 416 distribution of information on commuting options to the on-site population;
- 417 coordinating with the Department to conduct on-site commuting-related
- 418 outreach events; ensuring participation in commuter surveys by the on-site
- 419 population; attending occasional training sessions for Transportation
- 420 Coordinators; and other duties included in the Executive Regulation.
- 421 (B) Notification. Each owner of a project is required to notify the Department in
- 422 writing within 30 days of receipt of final Use and Occupancy certificate from
- 423 the Department of Permitting Services of the designated Coordinator's contact
- 424 information; and within 30 days of any subsequent change in that designation or
- 425 contact information.
- 426 (C) Access to the Project. Each owner must provide space on-site by prior
- 427 arrangement with the Department to allow the Department to promote TDM,

428 including participation in commuter surveys. Such space need not be
429 exclusively for this purpose but must be suitable for this purpose, as determined
430 by the Department.

431 (D) TDM Information. Displays of TDM-related information must be placed in a
432 location visible to employees, residents and other project users.

433 (2) Level Two: A Project-based TDM Action Plan requires a commitment to take specific
434 actions by the owner or applicant to achieve a base Non-Auto Driver Mode Share that is
435 5% higher than the District's NADMS goal [[specific actions]] to help the County
436 achieve district-wide commuting goals. The Director may establish a project NADMS
437 goal that is up to 5% higher or 5% lower than the base NADMS goal in Red Policy Areas
438 and up to 10% higher or 10% lower than the base NADMS goal in Orange and Yellow
439 Policy Areas. The plan must include project-based strategies and demonstrate over time
440 that the adopted strategies are contributing toward achievement of the [[district's]]
441 commuting goals, in compliance with the Executive [[Regulations]] Regulation. A
442 project must be considered to be contributing toward achievement of the district's
443 commuting goals if the [[biannual]] biennial surveys of building occupants demonstrate
444 increased on-site Non-Auto Driver Mode Share, or a measurable improvement in an
445 alternative Department-approved metric, if applicable, in proportion to the level
446 necessary to achieve the project's goal by the date established in the project's TDM plan.
447 Once the NADMS goal or other commuting goals have been achieved, the owner must
448 maintain the level necessary to continue achieving the goals. A Project-based TDM
449 Action Plan must include the Project-based TDM Basic Plan components and the
450 following:

451 (A) Selection of Strategies. The owner or applicant must propose a Project-based
452 TDM Plan that includes required strategies and selected optional strategies
453 [[from the "Sample Menu of TDM Strategies" identified in the Executive
454 Regulation]]. Additional strategies may be proposed by the owner or applicant
455 and may be included in the Project-based TDM Plan if approved by the
456 Department.

457 (B) Commitment to Fund and Implement the Plan. The owner or applicant must
458 commit to fund and implement the Project-based TDM Plan at an adequate level
459 to contribute toward achievement of the [[district's]] commuting goals.

460 (C) Self-Monitoring. The owner or applicant must conduct self-monitoring,
461 consistent with Department requirements, to determine if the Project-based
462 TDM Plan is contributing toward achievement of the [[district's]] District's
463 goals. The self-monitoring must be conducted in addition to any monitoring
464 conducted by the Department.

465 (D) Biennial Report. Progress reports must be provided to the County in alternating
466 years, in a format consistent with Department requirements.

467 (E) Addition and/or Substitution of Strategies. If the strategies initially selected
 468 [[from the “Sample Menu of TDM Strategies”]] by the owner or applicant do
 469 not result in the plan contributing toward achievement of [[district]] District
 470 goals by four years after Date of Final Occupancy, the Department may require
 471 revisions in the project’s plan using [[the “Sample Menu of TDM Strategies”
 472 or]] other strategies proposed by the owner or applicant. The owner or applicant
 473 must agree to implement these revised strategies if required by the Department
 474 at a level consistent with the owner’s commitment to fund and implement the
 475 plan. This process may be repeated until the project demonstrates it is
 476 contributing toward achievement of district goals, consistent with the Executive
 477 Regulations. Once the NADMS goal or other commuting goals have been
 478 achieved, the owner must maintain the level necessary to continue achieving the
 479 goals.

480 (F) Additional Funding Commitment. If the project does not contribute toward
 481 achievement of [[district]] the commuting goals by six years after Date of Final
 482 Occupancy, the Department may require increased funding by the owner for
 483 existing or new TDM strategies to be implemented at the project. The owner
 484 must commit additional funds to supplement on-site strategies if required by the
 485 Department. The amount of the additional funding must be as established in the
 486 Executive Regulation.

487 (G) [[Rewards]] Performance Incentives. The owner may be eligible for annual
 488 [[rewards]] performance incentives established by the Department for continued
 489 contribution over multiple years toward achievement of [[district]] commuting
 490 goals, including reductions in TDM fees or other financial benefits, as
 491 established in the Executive Regulation.

492 (3) Level Three: A Project-based TDM Results Plan requires a commitment by the owner or
 493 applicant to achieve [[certain]] a base Non-Auto Driver Mode Share that is 5% higher
 494 than the District’s goal as well as [[and]] related commuting goals at that project. The
 495 plan must include project-based strategies and demonstrate that the plan is achieving the
 496 goals established for the project. [[Those goals may be equal to, higher or lower than the
 497 [[district’s]] District’s goals based on project-specific parameters, consistent with the
 498 Executive Regulation.]] The Director may establish a project NADMS goal that is up to
 499 5% higher or 5% lower than the base NADMS goal in Red Policy Areas and up to 10%
 500 higher or 10% lower than the base NADMS goal in Orange and Yellow Policy Areas.
 501 The plan must be submitted by the owner or applicant and approved by the Department.
 502 A Project-based TDM Results Plan must include the Project-based TDM Action Plan
 503 components and the following:

504 (A) Independent Monitoring. Monitoring by a consultant approved by the
 505 Department, to determine whether the project is meeting its goals. This

506 monitoring must be done on a regular basis consistent with the Executive
507 Regulations.

508 (B) Addition and/or Substitution of Strategies. If the strategies initially selected by
509 the owner or applicant do not result in the project achieving its goals by six
510 years after Date of Final Occupancy, the Department may require revisions in
511 the project’s plan using [[the “Sample Menu of TDM Strategies” or]] other
512 strategies proposed by the owner or applicant. The owner or applicant must
513 agree to implement these revised strategies if required by the Department at a
514 level consistent with the owner’s commitment to fund and implement the plan.
515 This process may be repeated until the project demonstrates it is achieving its
516 goals, in compliance with the Executive [[Regulations]] Regulation.

517 (C) Additional Funding Commitment. If the strategies selected by the owner or
518 applicant do not result in achievement of the project goals by six years after
519 Date of Final Occupancy, the Department may require increased funding by the
520 owner for existing or new TDM strategies to be implemented at the project.
521 Additional increases in funding may be required if the goals have still not been
522 achieved by eight years after Date of Final Occupancy. The owner must commit
523 additional funds to supplement on-site strategies if required by the Department.
524 The amount of the additional funding must be as established in the Executive
525 Regulation.

526 (D) [[Rewards]] Performance Incentives. The owner may be eligible for annual
527 [[rewards]] performance incentives established by the Department for continued
528 achievement of project goals over multiple years, including reductions in TDM
529 fees or other financial benefits, as established by the Executive Regulation.

530 (d) Process. A Project-based TDM Plan must be:

- 531 (1) proposed by the owner or applicant and approved by the Department;
- 532 (2) made an express condition of any approval for:
 - 533 (A) subdivision or another plan approval under Chapter 50;
 - 534 (B) site plan or another plan approval under Chapter 59; or
 - 535 (C) building permit for a recorded lot;
- 536 (3) subject to all other review and approval requirements of Chapter 50 and Chapter 59, with
537 approval of the Department required for any revisions to an approved TDM Program; and
- 538 (4) recorded in the County’s land records.

539 A Project-based TDM Plan must be required for all such approvals except where equivalent
540 provisions of a fully-executed traffic mitigation agreement for the project are in effect in
541 perpetuity.

542 (e) Enforcement. The Director must enforce the terms of each Project-based TDM Plan. This does
543 not limit the Planning Board's authority to revoke or otherwise enforce any approvals under
544 Chapter 50 or Chapter 59. [[Where a Project-based TDM Plan is a condition of subdivision,

545 optional method, site plan, or conditional use, the Planning Board must confirm that TDM Plan
 546 has been approved by the Director before issuing final approval.]] Where a Project-based TDM
 547 Plan is a condition of building permit approval, the Department of Permitting Services must
 548 confirm that the TDM Plan has been approved by the Director prior to issuing a building permit.

549 **42A-27. [Executive report] Traffic Mitigation Agreements.**

550 [(a) By December 1 of each even-numbered year, the Director must submit to the appropriate
 551 Advisory Committee and the Planning Board a report on transportation demand management in
 552 each district. The report should include:

- 553 (1) employee commuting patterns by employer;
- 554 (2) auto occupancy rates by employer;
- 555 (3) level of service measurements for each intersection in the policy area and selected critical
 556 intersections outside the area;
- 557 (4) parking supply and demand;
- 558 (5) status of road or intersection improvements, signal automation, improved bicycle and
 559 pedestrian access and safety, and other traffic modifications in or near the policy area;
- 560 (6) transit use and availability;
- 561 (7) carpool and vanpool use; and
- 562 (8) the source and use of any funds received under this Article.]

563 [(b) By March 1 of each odd-numbered year, the Executive must forward each report to the Council.
 564 The Executive must note any area of disagreement between the Director and an Advisory
 565 Committee.]

566 [(c) If any commuting goals set in the Growth Policy are not met 4 years after a district is created, the
 567 Director must recommend corrective action to the Executive. This action may include mandatory
 568 mitigation measures. If the Executive agrees that such action is necessary, the Executive should
 569 propose appropriate legislation or adopt appropriate regulations as authorized by law.]

570 Enforcement. The Department must enforce the terms of each traffic mitigation agreement. This does not
 571 limit the Planning Board's authority to revoke or otherwise enforce any approvals for subdivision under
 572 Chapter 50 or optional method development under Chapter 59.

573 **42A-28. [Regulations] Commuter survey and related data collection.**

574 [The Executive may adopt regulations under method (2) to implement this Article.]

575 (a) The Director, after consulting the appropriate Advisory Committee, must conduct a commuter
 576 survey, or obtain through other available mechanisms, data on commuting by employees and
 577 residents within a defined area. The data must be obtained on a schedule determined by the
 578 Director.

579 (b) The Director, in consultation with the appropriate Advisory Committee, must prepare a survey or
 580 other data collection mechanism as necessary to generate information to:

- 581 (1) create an accurate data base of employee and resident commuting patterns [[in the
 582 district]]; and

- 583 (2) monitor progress toward reaching any commuting goals set in the Subdivision Staging
- 584 Policy, Master Plans or Sector Plans, as implemented by the Department through
- 585 Executive Regulations or other adopted policies and procedures.
- 586 (c) The Department must distribute the survey to employers; building owners or managers; tenants,
- 587 condominium and homeowners associations; Transportation Coordinators, and others required to
- 588 conduct the survey or to participate in other ways in the data collection process, based on a
- 589 schedule the Director sets. The Department may also collect commuting data through other
- 590 available mechanisms in addition to or in place of the commuter survey.
- 591 (d) Each notified employer, building owner or manager, Transportation Coordinator or other entity
- 592 must distribute, collect, and return the completed surveys, or otherwise provide the required data
- 593 through other Department-approved mechanisms. Data collected must be provided to the
- 594 transportation management organization and the Department within the time period established by
- 595 the Department.
- 596 (e) Any entity required to participate in the commuting survey, or to participate in data collection
- 597 through another mechanism, must make a good faith effort to generate survey responses or other
- 598 data from their target population with the objective of achieving at least a [[60]] 40 percent
- 599 compliance rate for an entity with a target population of either 100 or more employees or 100 or
- 600 more residents and 50 percent for an entity with a target population of less than 100 employees or
- 601 less than 100 residents. The Director may require a smaller or larger response rate from a given
- 602 worksite, building, or project based on requirements for statistical validity.

603 **42A-29. [Transportation Management Fee] Executive report on [[TMDs]] Transportation Demand**

604 **Management.**

- 605 [(a) *Authority.*
- 606 (1) The Council may by resolution adopted under Section 2-57A set the transportation
- 607 management fee that the Department must annually charge, under the Alternative Review
- 608 Procedures in the Growth Policy, an applicant for subdivision or optional method
- 609 development approval in a district and each successor in interest.
- 610 (2) If the resolution creating a district authorizes the Department to charge a transportation
- 611 management fee to any of the following persons, the Council may, by resolution adopted
- 612 under Section 2-57A, set the fee that the Department must charge:
- 613 (A) an applicant for subdivision or optional method development in the district who
- 614 is not subject to a transportation management fee under the Alternative Review
- 615 Procedures in the Growth Policy and each successor in interest; and
- 616 (B) an owner of existing commercial and multi-unit residential property in the
- 617 district.]
- 618 [(b) *Use of revenue.* The revenue generated by a transportation management fee must be used in the
- 619 district in which the development or property subject to the fee is located to cover the cost of:
- 620 (1) administering the district, including review and monitoring of traffic mitigation plans
- 621 under Section 42A-24 and traffic mitigation agreements under Section 42A-25; and

622 (2) any program implemented under Section 42A-23(b), including any vehicle or other
623 equipment necessary to carry out the program.]

624 [(c) *Rate.* The rate of a transportation management fee must be set to produce not more than an
625 amount of revenue substantially equal to the:

626 (1) portion of the cost of administering the district, including the review and monitoring of
627 traffic mitigation plans under Section 42A-24 and traffic mitigation agreements under
628 Section 42A-25, reasonably attributable to the transportation effects of the development
629 or property subject to the fee; and

630 (2) portion of the cost of any program implemented under Section 42A-23(b), including any
631 vehicle or other equipment necessary to carry out the program, reasonably attributable to
632 the transportation effects of the development or property subject to the fee.]

633 [(d) *Method.* A transportation management fee may be assessed on:

634 (1) the gross floor area, the maximum or actual number of employees, or the average number
635 of customers, visitors, or patients, in a nonresidential building;

636 (2) the number of dwelling units, or the gross floor area, in a residential building;

637 (3) the number of parking spaces associated with a building; or

638 (4) any other measurement reasonably related to transportation use by occupants of,
639 employees located in, or visitors to a particular development or property.]

640 [(e) *Variation.* The transportation management fee and the basis on which it is assessed may vary from
641 one district to another and one building category or land use category to another.]

642 (a) By December 1 of each even-numbered year, the Director must submit to the appropriate
643 Advisory Committee and the Planning Board a report on transportation demand management in
644 each operating [[district]] District. The report should include the following information to the
645 extent feasible within the constraints of available resources:

646 (1) employee commuting patterns by employer, building or project; residential commuting
647 patterns by building or project; other commuting or travel patterns as appropriate;

648 (2) auto occupancy rates by employer, residential unit or other appropriate measures;

649 (3) level of service measurements for each major intersection in the policy area and selected
650 critical intersections outside the area;

651 (4) parking supply and demand;

652 (5) status of road or intersection improvements, signal automation, bicycle and pedestrian
653 access and safety, and other traffic modifications in or near the district;

654 (6) transit use and availability;

655 (7) carpool and vanpool use;

656 (8) bicycle and bikeshare use;

657 (9) use of other transportation modes relevant to analyzing achievement of commuting goals;
658 [[and]]

659 (10) the number of electric vehicle charging stations in the area; and

660 (11) the source and use of any funds received under this Article.

661 (b) By March 1 of each odd-numbered year, the Executive must forward [[each report]] required
662 reports to the Council. The Executive must note any area of disagreement between the Director
663 and an Advisory Committee.

664 (c) If any commuting goals set in the Subdivision Staging Policy are not met eight years after a
665 district is created or by June 30, [[2027]] 2028, whichever is later, the Director must recommend
666 corrective action to the Executive. This action may include additional mitigation measures. If the
667 Executive agrees that such action is necessary, the Executive should propose appropriate
668 legislation or adopt appropriate regulations as authorized by law.

669 **42A-30. [Enforcement] Regulations.**

670 [The Department must enforce this Article. An employer that does not submit a traffic mitigation plan or
671 provide survey data within 30 days after a second notice has committed a class C violation. An owner who does not
672 submit a traffic mitigation plan within 30 days after a second notice has committed a class C violation. A party to a
673 traffic mitigation agreement under Section 42A-26 who does not comply with the agreement within 30 days after
674 notice has committed a class A violation.]

675 The Executive must adopt regulations under method (2) to implement this Article. The regulations may
676 implement the requirements of this Article in phases.

677 **42A-31. Transportation Demand Management Fee.**

678 (a) Authority.

679 (1) The Council may, by resolution adopted under Section 2-57A, set the transportation
680 demand management fee that the Department must annually charge an applicant, and
681 each successor in interest, for subdivision, optional method development approval, or a
682 building permit.

683 (2) The Department is authorized to charge a transportation demand management fee
684 adopted by the Council to:

685 (A) an applicant for subdivision or optional method approval, site plan approval or a
686 building permit in a [[district]] District and

687 (B) an owner of existing commercial, industrial or multi-unit residential developed
688 property in the [[district]] District, including a property where the principal use
689 is a commercial parking facility.

690 (b) Use of revenue. The revenue generated by a transportation demand management fee must be used
691 in the [[transportation management district]] District in which the development or property subject
692 to the fee is located to cover the cost of:

693 (1) administering the [[district]] District and TDM strategies, and coordinating with projects
694 and occupants (including employees and residents) within that [[district]] District or
695 Policy Area, including review and monitoring of TDM Plans; and

696 (2) any program implemented under Section 42A-23(b), including any vehicle or other
697 equipment necessary to carry out the program.

698 (c) Rate. The rate of a transportation demand management fee must be set to produce not more than
699 an amount of revenue substantially equal to the:

- 700 (1) portion of the cost of administering TDM in the [[district]] District, including the review
- 701 and monitoring of TDM Plans, reasonably attributable to the transportation effects of the
- 702 development project or property subject to the fee; and
- 703 (2) portion of the cost of any program implemented under Section 42A-23(b), including any
- 704 vehicle or other equipment necessary to carry out the program, reasonably attributable to
- 705 the transportation effects of the development project or property subject to the fee.
- 706 (d) Method. A transportation demand management fee may be assessed on:
- 707 (1) the gross square feet, the gross floor area, the maximum or actual number of employees,
- 708 or the average number of customers, visitors, or patients, in a nonresidential building;
- 709 (2) the number of dwelling units, the gross square feet or the gross floor area, in a residential
- 710 building;
- 711 (3) the number of parking spaces associated with a building; or
- 712 (4) any other measurement reasonably related to transportation use by occupants of,
- 713 employees located in, or visitors to a particular development or property, including
- 714 property where the principal use is as a commercial parking facility.
- 715 (e) Variation. The transportation demand management fee and the basis on which it is assessed may
- 716 vary within each [[district]] District, between one [[district]] District and another, and from one
- 717 building category or land use category to another.

42A-32. Enforcement.

- 719 (a) The Department must enforce this Article. An employer, owner, building or project manager or
- 720 other responsible party subject to Section 42A-24 or 42A-25 that does not submit a TDM Plan or
- 721 required report, comply with required provisions of a plan, or provide survey data consistent with
- 722 the requirements of Section 42A-28 within 30 days after a second notice has committed a class C
- 723 violation.
- 724 (b) A party to a Project-based Transportation Demand Management Plan under Section 42A-26 who
- 725 does not comply with the approved plan within 30 days after notice of noncompliance has
- 726 committed a class A violation.
- 727 (c) Any party [[required to]] that does not submit required reports on numbers of employees,
- 728 transportation demand management plans and strategies, Non-Auto Driver Mode Share, progress
- 729 toward goals, survey results or other TDM-related provisions or measurements on a timely basis
- 730 has committed a class C violation.
- 731 (d) Any party who falsifies any required data or reports has committed a class A violation.

Sec. 2. Transition.

- 733 (a) *Existing agreements.* All traffic mitigation agreements executed under this Chapter before this
- 734 Act takes effect that have not expired or terminated, remain in effect.
- 735 (b) *New building or project approvals.* No traffic mitigation agreement must be required for any new
- 736 building or development project approved after this Act takes effect.
- 737 (c) *Projects with prior approvals.* Any building or development project with an existing subdivision
- 738 or optional method approval when this Act takes effect where a traffic mitigation agreement was a

- 739 condition of that approval, may opt to be considered for re-approval of their application under the
740 amendments in Section 1 if:
- 741 (1) a traffic mitigation agreement has not yet been fully executed;
 - 742 (2) the building or project approved is larger than the minimum sizes designated for each
743 Subdivision Staging Policy Area group in Section 42A-26; and
 - 744 (3) construction has not begun.