COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED
Tuesday, December 3, 2019


PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Albornoz
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.
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 Culleen, 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.
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

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:

\[(d) \quad \text{The public members appointed under paragraph (c) must participate in the Montgomery County Police Department Citizens Academy.}\]

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

\[(4) \quad \text{The public members appointed under paragraphs (2) and (3) should:}\]

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


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.

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
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** Heading or defined term.

*Underlining* Added to existing law by original bill.

[Single boldface brackets] Deleted from existing law by original bill.

**Double underlining** Added by amendment.

[[Double boldface brackets]] Deleted from existing law or the bill by amendment.

* * * Existing law unaffected by bill.

* The County Council for Montgomery County, Maryland approves the following Act:*
Sec. 1. Section 35-6 is added as follows:


(a) Definitions. In this Section the 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 Council member should nominate one member. Each Council member 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) the President of an employee organization certified under Article V of Chapter 33 or the President’s designee.

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 Commission must 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.

(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


(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.

(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.

(i) Advocacy. The Commission must not engage in any advocacy activity at the State or federal levels unless that activity is approved by the Office of Intergovernmental Relations.

(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

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

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

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


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;]
any business with no permanent workplace or location; or

any government agency not required by law to follow County regulations.

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

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

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

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

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

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

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

Resident means an adult domiciled in the relevant area.

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

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

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

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

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

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

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

Vanpool means a [van occupied by at least 8 employees traveling together] vehicle that has the capacity for 6 or more passengers in addition to the driver if:
(1) passengers occupy 50% or more of the seats at any point during the trip; and
(2) the vehicle is used to transport employees between their residences, designated locations, and their place of employment for 80% or more of the miles the vehicle is driven.

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


(a) New economic development is important to stimulate the local economy. Focusing new development in high transit-service areas is an important County land use and economic development objective.

(b) Limited transportation infrastructure, traffic congestion, inadequate access to transit, bicycle and pedestrian facilities, and safety issues impede the County’s land use and economic development objectives.

(c) Transportation demand management, in conjunction with adequate transportation facility review, planned capital improvement projects, and parking and traffic control measures, will:

(1) help provide sufficient transportation capacity to achieve County land use objectives and permit further economic development;

(2) reduce the demand for road capacity, promote traffic safety for all users of transportation infrastructure, and improve access to transit, bicycle and pedestrian facilities; and

(3) help reduce vehicular emissions, energy consumption, and noise levels, and help address climate change.

(d) Improved traffic levels and air quality, and a reduction in ambient noise levels will help create attractive and convenient places to live, work, visit, and conduct business.

(e) Transportation demand management will equitably allocate responsibility for reducing single-occupancy vehicle trips among government, developers, employers, property owners, [tenants,] and the public.

(f) Transportation demand management should be consistent with any commuting goals set in the Growth Subdivision Staging Policy, Master Plans, and Sector Plans. TDM should [and] foster coordinated and comprehensive government, private industry, and public action to:

(1) make efficient use of existing transportation infrastructure;

(2) increase transportation capacity as measured by numbers of people transported;

[(2)](3) reduce existing and future levels of traffic congestion by moving more people in fewer vehicles;

[(3)](4) reduce air and noise pollution, and address climate change; and

[(4)](5) promote traffic safety together with transit, [and] pedestrian and bicycle safety and access for all users.

(g) Transportation demand management will substantially advance public policy objectives. Adoption of this Article is in the best interest of the public health, safety, and general welfare of the County.

42A-23. Districts; authority of the Department and Planning Board.
The County Council by resolution may create a transportation management district [in] (TMD) in a policy area where it is required to ensure effective transportation demand management in the Subdivision. A district may be formed from all or portions of one or more Policy areas, even if they are not contiguous. A district may be formed from all, or portions of, one or more Subdivision areas, even if they are not contiguous.

(1) a Metro station policy area, which may include adjacent areas served by the same transportation network; or

(2) an area where transportation review applies under the Growth Policy.

The Department may take actions necessary to achieve effective transportation demand management in each District, on its own or by contract with any employer, transportation management organization, or other party, including:

(1) controlling the use of or limiting public parking, by regulation adopted under method (2);

(2) prohibiting bundling of parking in new developments;

(3) monitoring and assessing traffic patterns and pedestrian access and safety;

(4) adopting traffic and parking control measures;

(5) providing transit, shuttles, circulator services, or other transportation services;

(6) implementing approved transportation-related capital projects;

(7) promoting and improving existing transit and ridesharing incentives;

(8) promoting regional cooperation between the County and other government agencies;

(9) creating cooperative County-private sector programs to increase ridesharing and transit use; and

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

In each District, sole source contracts may be signed with, or funds granted to, one or more transportation management organizations to carry out transportation demand management programs that the Department could otherwise carry out, under Chapter 11B.

The Department and the Planning Board may, in accordance with this Article and other applicable law, jointly or separately impose transportation demand management measures as conditions on the Board's approval of development in any District.

Each District may have a Transportation Management District Advisory Committee if the Executive by regulation decides a Committee is necessary to carry out this Article or if the Council creates a Committee by resolution. The Executive or Council may designate any existing advisory body appointed by the Executive and confirmed by the Council to serve as a Transportation Management District Advisory Committee. The Executive must appoint, and the Council must confirm, members of any Advisory Committee. The County must not compensate members of an Advisory Committee for their services. Advisory Committee members, not
otherwise public employees as defined in Chapter 19A, are not subject to the financial disclosure provisions of that Chapter.


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

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

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

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

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

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

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

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

Silver Spring TMD

Friendship Heights TMD

Bethesda TMD

North Bethesda TMD

Greater Shady Grove TMD

[White Oak TMD].

[(c) (4) The [traffic mitigation plan should] TDM Plan must be consistent with and contribute to the achievement of any NADMS Goal or other commuting goals set in the [Growth] Subdivision Staging Policy, Master Plans, Sector Plans, and any individual project-based goals or [interim] goals established in the regulations implementing this Article. The TDM Plan must include strategies required by regulation and other strategies selected by the employer from those permitted by regulation or proposed by the employer and approved by the Director. A [traffic mitigation plan] TDM Plan may include an alternative work hours program, carpool or vanpool incentives, subsidized transit passes,
preferential parking for carpoolors and vans, parking management strategies, peak
period or single-occupancy vehicle parking charges, improved transit, bicycle and
pedestrian access and safety, telework, and other transportation demand management
measures approved by the Director.

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

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

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

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

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

(1) offer to help employers prepare TDM Plans;

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

(3) help an employer revise a plan that the Director determines does not meet the
requirements of this Section.

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

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

(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.

[(1) The Director may require an owner of a nonresidential building in a district to submit a
traffic mitigation plan if:
(A) the Director finds that a plan is necessary to achieve the purpose of this Article because of the owner's control of parking or common space or for similar reasons; and

(B) the Director notifies the owner of the building under subsection (a).]

[(2) As specified in the notice, the owner's plan may cover all or some employers in the building. A plan submitted under this subsection may be in addition to one an individual employer must submit.]

[(3) After receiving notice under this Section, an owner must submit a traffic mitigation plan that meets the requirements applicable to an employer.]

[(g) (1) The Director may require an owner of a residential building or complex with at least 100 dwelling units, including a common ownership community as defined in Chapter 10B, in a district to submit a traffic mitigation plan if:

(A) the Director finds that a plan is necessary to achieve the purpose of this Article because of the owner's control of parking or common space or for similar reasons; and

(B) the Director notifies the owner of the building under subsection (a).]

(2) After receiving notice under this Section, an owner of a residential building must submit a traffic mitigation plan that meets the requirements applicable to an employer.]

[(h) The Director must offer to help employers and owners prepare traffic mitigation plans.]

[(i) The Director must:

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

(2) help the employer or owner revise a plan which does not meet the requirements.]

[(j) The Director may require an employer or owner to resubmit a plan that is not consistent with any commuting goals set in the Growth Policy. The Director must not require an employer to submit a plan that meets the requirements of this Section more than once every 2 years. An employer must submit a report on transportation management measures used to implement a traffic mitigation plan to the transportation management organization based on a schedule the Director sets.]


[(a) Any proposed subdivision or optional method development in a district must be subject to a traffic mitigation agreement if the Planning Board and the Director jointly decide, under standards adopted by the Council for the adequacy of public transportation, that more transportation facilities or transportation demand management measures are necessary to meet any commuting goals set in the Growth Policy.]

[(b) A traffic mitigation agreement must specify transportation demand management measures that the applicant or a responsible party must carry out. The measures must be calculated to ensure that public transportation will be adequate to meet commuting goals set in the Annual Growth Policy.]

[(c) A traffic mitigation agreement may require:

(1) naming a transportation coordinator;
(2) limits on parking spaces;
(3) peak period or single-occupancy vehicle parking charges;
(4) preferential parking for carpools and vanpools;
(5) subsidies for employees not using single-occupancy vehicles;
(6) financial or other participation in building or operating on- or off-site transportation facilities or systems;
(7) providing space on a periodic basis for marketing and promotional activities of the district;
(8) designating permanent areas in prominent locations to display information on commuting options; or
(9) other transportation demand management measures.]

(d) A traffic mitigation agreement must be:
(1) agreed to by the applicant, the Department, and the Planning Board;
(2) made an express condition of any approval for subdivision under Chapter 50 or optional method development under Chapter 59;
(3) subject to all other review and approval requirements of Chapter 50 and Chapter 59; and
(4) recorded in the County’s land records.]

(e) A traffic mitigation agreement may:
(1) require adequate financial security, including bonds, letters of credit, or similar guarantees;
(2) bind future tenants of the development; and
(3) specify liquidated damages, specific performance, or other contractual remedies, as appropriate.]

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

(a) **Transportation Demand Management (TDM) Plans for Existing Non-residential Buildings.**

(1) The Director may require an owner of a nonresidential building in a [[district]] District to submit a TDM Plan if:
   (A) the Director finds that a plan is necessary to achieve the purpose of this Article; and
   (B) the building is not subject to either a traffic mitigation agreement currently in effect or a Project-based TDM Plan under Section 42A-26.

(2) If an existing non-residential building is subject to this Section, the Director must notify the building owner that a TDM plan meeting the requirements of this Section must be submitted. As specified in the notice, the owner's plan may cover all or some employers in the building. A plan submitted under this subsection may be in addition to one an individual employer must submit.
(3) After receiving notice under this Section, an owner must submit a TDM Plan meeting the requirements established in the Executive Regulations for approval by the Director.

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

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

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

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

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

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

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

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

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

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

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

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


(Project-based TDM Plans).

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

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

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

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

[c] The Department must distribute the survey to employers based on a schedule the Director sets. Each notified employer must distribute, collect, and return the completed surveys to the transportation management organization within 45 days after receiving the surveys.
An employer must make a good faith effort to generate survey responses from employees with the objective of achieving at least an 80 percent compliance rate.\]

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

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

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

1. An owner or applicant for a project located in a Red Policy Area under the Subdivision Staging Policy must:
   
   (A) submit a Level 1 TDM Basic Plan for a project with [[at least 25,000 gross square feet, but]] less than or equal to [[100,000]] 40,000 gross square feet; and
   
   (B) submit a Level 3 TDM Results Plan for a project with more than [[100,000]] 40,000 gross square feet;

2. An owner or applicant for a project located in an Orange Policy Area under the Subdivision Staging Policy must:

   (A) submit a Level 1 TDM Basic Plan for a project with at least [[50,000]] 40,000 gross square feet, but less than or equal to [[100,000]] 80,000 gross square feet;
   
   (B) submit a Level 2 TDM Action Plan for a project with more than [[100,000]] 80,000 gross square feet, but less than or equal to [[200,000]] 160,000 gross square feet; and
   
   (C) submit a Level 3 TDM Results Plan for a project with more than [[200,000]] 160,000 gross square feet;

3. An owner or applicant for a project located in a Yellow Policy Area under the Subdivision Staging Policy must:
(A) submit a Level 1 TDM Basic Plan for a project with at least [75,000] 60,000 gross square feet, but less than or equal to 150,000 gross square feet; and

(B) submit a Level 2 TDM Action Plan for a project with more than 150,000 gross square feet.

(4) If an adopted Master Plan or Sector Plan requires a higher Level of Project-based TDM Plan, those Master Plan or Sector Plan requirements override those described in paragraphs (1), (2), or (3).

(5) An owner or applicant for a project with a gross square feet size disproportionate to its impact on traffic (e.g., large floor area warehouses with lower impacts; small floor area food or beverage establishments with higher impacts) may be required to adhere to a Project-based TDM Plan Level that is either lower or higher than otherwise required by its size and location, in accordance with the development approval and consistent with the Executive Regulation implementing this Article.

(c) Components of Project-based TDM Plans. The components of each Project-based TDM Plan Level are described in detail in the Executive Regulation adopted to implement these provisions. Each plan must include the components listed below and in the Executive Regulation. The plan must be submitted by the owner or applicant and approved by the Department. Any owner or applicant may choose to comply with the requirements for a higher Level of Project-based TDM Plan.

(1) Level One: A Project-based TDM Basic Plan is not required to include specific project-based strategies other than providing information, but must implement County-led strategies at the Project and must include:

(A) Appointment of a Transportation Coordinator and Commitment to Cooperate with the Department’s Programs. Each owner of a project must designate an individual responsible to assist and cooperate with the Department’s efforts to achieve the Non-Auto Driver Mode Share goals and other traffic mitigation and commuting goals [established for that area]. This assistance must include distribution of information on commuting options to the on-site population; coordinating with the Department to conduct on-site commuting-related outreach events; ensuring participation in commuter surveys by the on-site population; attending occasional training sessions for Transportation Coordinators; and other duties included in the Executive Regulation.

(B) Notification. Each owner of a project is required to notify the Department in writing within 30 days of receipt of final Use and Occupancy certificate from the Department of Permitting Services of the designated Coordinator’s contact information; and within 30 days of any subsequent change in that designation or contact information.

(C) Access to the Project. Each owner must provide space on-site by prior arrangement with the Department to allow the Department to promote TDM.
including participation in commuter surveys. Such space need not be exclusively for this purpose but must be suitable for this purpose, as determined by the Department.

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

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

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

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

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

(D) Biennial Report. Progress reports must be provided to the County in alternating years, in a format consistent with Department requirements.
Addition and/or Substitution of Strategies. If the strategies initially selected\n[from the “Sample Menu of TDM Strategies”] by the owner or applicant do\nnot result in the plan contributing toward achievement of [[district]] District\ngoals by four years after Date of Final Occupancy, the Department may require\nrevisions in the project’s plan using [the “Sample Menu of TDM Strategies”\nor][] other strategies proposed by the owner or applicant. The owner or applicant\nmust agree to implement these revised strategies if required by the Department\nat a level consistent with the owner’s commitment to fund and implement the\nplan. This process may be repeated until the project demonstrates it is\ncontributing toward achievement of district goals, consistent with the Executive\nRegulations. Once the NADMS goal or other commuting goals have been\nachieved, the owner must maintain the level necessary to continue achieving the\ngoals.

Additional Funding Commitment. If the project does not contribute toward\nachievement of [[district]] the commuting goals by six years after Date of Final\nOccupancy, the Department may require increased funding by the owner for\nexisting or new TDM strategies to be implemented at the project. The owner\nmust commit additional funds to supplement on-site strategies if required by the\nDepartment. The amount of the additional funding must be as established in the\nExecutive Regulation.

[[Rewards]] Performance Incentives. The owner may be eligible for annual\n[[rewards]] performance incentives established by the Department for continued\ncontribution over multiple years toward achievement of [[district]] commuting\ngoals, including reductions in TDM fees or other financial benefits, as\nestablished in the Executive Regulation.

Level Three: A Project-based TDM Results Plan requires a commitment by the owner or\napplicant to achieve [[certain]] a base Non-Auto Driver Mode Share that is 5% higher\nthan the District’s goal as well as [[and]] related commuting goals at that project. The\nplan must include project-based strategies and demonstrate that the plan is achieving the\ngoals established for the project. [[Those goals may be equal to, higher or lower than the\n[district’s]] District’s goals based on project-specific parameters, consistent with the\nExecutive Regulation.]] The Director may establish a project NADMS goal that is up to\n5% higher or 5% lower than the base NADMS goal in Red Policy Areas and up to 10%\nhigher or 10% lower than the base NADMS goal in Orange and Yellow Policy Areas.\nThe plan must be submitted by the owner or applicant and approved by the Department.\nA Project-based TDM Results Plan must include the Project-based TDM Action Plan\ncomponents and the following:

Independent Monitoring. Monitoring by a consultant approved by the\nDepartment, to determine whether the project is meeting its goals. This
monitoring must be done on a regular basis consistent with the Executive Regulations.

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

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

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

\( \text{(d) Process.} \) A Project-based TDM Plan must be:

\( \text{(1) proposed by the owner or applicant and approved by the Department;} \)

\( \text{(2) made an express condition of any approval for;} \)

\( \text{(A) subdivision or another plan approval under Chapter 50;} \)

\( \text{(B) site plan or another plan approval under Chapter 59;} \)

\( \text{(C) building permit for a recorded lot;} \)

\( \text{(3) subject to all other review and approval requirements of Chapter 50 and Chapter 59, with approval of the Department required for any revisions to an approved TDM Program;} \)

\( \text{(4) recorded in the County’s land records.} \)

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

\( \text{(e) Enforcement.} \) The Director must enforce the terms of each Project-based TDM Plan. This does not limit the Planning Board’s authority to revoke or otherwise enforce any approvals under Chapter 50 or Chapter 59. [Where a Project-based TDM Plan is a condition of subdivision,
optional method, site plan, or conditional use, the Planning Board must confirm that TDM Plan
has been approved by the Director before issuing final approval. Where a Project-based TDM
Plan is a condition of building permit approval, the Department of Permitting Services must
confirm that the TDM Plan has been approved by the Director prior to issuing a building permit.


[(a) By December 1 of each even-numbered year, the Director must submit to the appropriate
Advisory Committee and the Planning Board a report on transportation demand management in
each district. The report should include:
(1) employee commuting patterns by employer;
(2) auto occupancy rates by employer;
(3) level of service measurements for each intersection in the policy area and selected critical
intersections outside the area;
(4) parking supply and demand;
(5) status of road or intersection improvements, signal automation, improved bicycle and
pedestrian access and safety, and other traffic modifications in or near the policy area;
(6) transit use and availability;
(7) carpool and vanpool use; and
(8) the source and use of any funds received under this Article.]

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

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

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


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

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

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

(1) create an accurate data base of employee and resident commuting patterns [[in the
district]]; and
(2) monitor progress toward reaching any commuting goals set in the Subdivision Staging Policy, Master Plans or Sector Plans, as implemented by the Department through Executive Regulations or other adopted policies and procedures.

(c) The Department must distribute the survey to employers; building owners or managers; tenants, condominium and homeowners associations; Transportation Coordinators, and others required to conduct the survey or to participate in other ways in the data collection process, based on a schedule the Director sets. The Department may also collect commuting data through other available mechanisms in addition to or in place of the commuter survey.

(d) Each notified employer, building owner or manager, Transportation Coordinator or other entity must distribute, collect, and return the completed surveys, or otherwise provide the required data through other Department-approved mechanisms. Data collected must be provided to the transportation management organization and the Department within the time period established by the Department.

(e) Any entity required to participate in the commuting survey, or to participate in data collection through another mechanism, must make a good faith effort to generate survey responses or other data from their target population with the objective of achieving at least a [[60]] 40 percent compliance rate for an entity with a target population of either 100 or more employees or 100 or more residents and 50 percent for an entity with a target population of less than 100 employees or less than 100 residents. The Director may require a smaller or larger response rate from a given worksite, building, or project based on requirements for statistical validity.

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

(a) Authority.

(1) The Council may by resolution adopted under Section 2-57A set the transportation management fee that the Department must annually charge, under the Alternative Review Procedures in the Growth Policy, an applicant for subdivision or optional method development approval in a district and each successor in interest.

(2) If the resolution creating a district authorizes the Department to charge a transportation management fee to any of the following persons, the Council may, by resolution adopted under Section 2-57A, set the fee that the Department must charge:

(A) an applicant for subdivision or optional method development in the district who is not subject to a transportation management fee under the Alternative Review Procedures in the Growth Policy and each successor in interest; and

(B) an owner of existing commercial and multi-unit residential property in the district.

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

(1) administering the district, including review and monitoring of traffic mitigation plans under Section 42A-24 and traffic mitigation agreements under Section 42A-25; and
(2) any program implemented under Section 42A-23(b), including any vehicle or other equipment necessary to carry out the program.]

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

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

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

Method. A transportation management fee may be assessed on:

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

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

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

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

Variation. The transportation management fee and the basis on which it is assessed may vary from one district to another and one building category or land use category to another.]

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

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

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

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

(4) parking supply and demand;

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

(6) transit use and availability;

(7) carpool and vanpool use;

(8) bicycle and bikeshare use;

(9) use of other transportation modes relevant to analyzing achievement of commuting goals;

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

(11) the source and use of any funds received under this Article.
(b) By March 1 of each odd-numbered year, the Executive must forward [insert report] required reports to the Council. The Executive must note any area of disagreement between the Director and an Advisory Committee.

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

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

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

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

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

(a) **Authority.**

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

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

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

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

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

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

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

(c) **Rate.** The rate of a transportation demand management fee must be set to produce not more than an amount of revenue substantially equal to the:
portion of the cost of administering TDM in the [[district]] District, including the review
and monitoring of TDM Plans, reasonably attributable to the transportation effects of the
development project or property subject to the fee; and

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

(d) Method. A transportation demand management fee may be assessed on:

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

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

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

(4) any other measurement reasonably related to transportation use by occupants of,
employees located in, or visitors to a particular development or property, including
property where the principal use is as a commercial parking facility.

(e) Variation. The transportation demand management fee and the basis on which it is assessed may
vary within each [[district]] District, between one [[district]] District and another, and from one
building category or land use category to another.


(a) The Department must enforce this Article. An employer, owner, building or project manager or
other responsible party subject to Section 42A-24 or 42A-25 that does not submit a TDM Plan or
required report, comply with required provisions of a plan, or provide survey data consistent with
the requirements of Section 42A-28 within 30 days after a second notice has committed a class C
violation.

(b) A party to a Project-based Transportation Demand Management Plan under Section 42A-26 who
does not comply with the approved plan within 30 days after notice of noncompliance has
committed a class A violation.

(c) Any party [required to] that does not submit required reports on numbers of employees,
transportation demand management plans and strategies, Non-Auto Driver Mode Share, progress
toward goals, survey results or other TDM-related provisions or measurements on a timely basis
has committed a class C violation.

(d) Any party who falsifies any required data or reports has committed a class A violation.

Sec. 2. Transition.

(a) Existing agreements. All traffic mitigation agreements executed under this Chapter before this
Act takes effect that have not expired or terminated, remain in effect.

(b) New building or project approvals. No traffic mitigation agreement must be required for any new
building or development project approved after this Act takes effect.

(c) Projects with prior approvals. Any building or development project with an existing subdivision
or optional method approval when this Act takes effect where a traffic mitigation agreement was a
condition of that approval, may opt to be considered for re-approval of their application under the amendments in Section 1 if:

(1) a traffic mitigation agreement has not yet been fully executed;

(2) the building or project approved is larger than the minimum sizes designated for each Subdivision Staging Policy Area group in Section 42A-26; and

(3) construction has not begun.