

Bill No. 37-03  
Concerning: Growth Policy - Process  
Revised: 2-3-04 Draft No. 3  
Introduced: November 18, 2003  
Enacted: February 3, 2004  
Executive: February 12, 2004  
Effective: May 13, 2004  
Sunset Date: None  
Ch. 2, Laws of Mont. Co. 2004

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President

**AN ACT to:**

- (1) repeal the requirement to adopt a ceiling element of the annual growth policy;
- (2) revise the schedule and terminology for the policy element; and
- (3) make certain conforming changes and generally amend the law governing the County growth policy.

By amending

Montgomery County Code  
Chapter 33A, Planning Procedures  
Section 33A-15

Sections 2-25, 8-30, 8-31, 8-34, 8-37, 14-3, 14-7, 25B-1, 33A-17, 42A-9A, 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-29, 52-47, 52-48, 52-49, 52-60, 52-61, and 52-88

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

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

**Sec. 1. Section 33A-15 is amended as follows:**

**33A-15. [Annual] Growth Policy.**

(a) Purpose.

(1) The purpose of this Article is to establish a process by which the County Council can give policy guidance to agencies of government and the public on matters concerning:

(A) land use development;

(B) growth management; and

(C) related environmental, economic, and social issues.

(2) The [process] policy guidance will be [established] provided through the adoption by the County Council of [an annual] a growth policy, which is intended to be an instrument that facilitates and coordinates the use of the powers of government to limit or encourage growth and development in a manner that best enhances the general health, welfare, and safety of the residents of the County.

(b) Simplified description.

[(1) The annual growth policy has 2 components: a ceiling element and a policy element.

(2) The ceiling element must be adopted annually by the County Council. It consists of:

(A) growth ceilings based on transportation capacity for each policy area in the County, for both residential and employment land uses, which must be consistent with relevant portions of state, county, and municipal capital improvement programs;

27 (B) the determination whether adequate capacity will exist for  
 28 public schools; and

29 (C) a list of any roads, transit, or school facilities that should  
 30 not be counted in calculating growth ceilings.

31 [(3)] The growth policy [element] must be adopted every 2 years by  
 32 the County Council. It consists of [other] policy guidelines for  
 33 the Planning Board, and other agencies as appropriate, for their  
 34 administration of Section 50-35(k) and other laws and regulations  
 35 which affect growth and development.

36 (c) Duties of the [Montgomery] County Planning Board.

37 [(1)] Each year, the Planning Board must produce a recommended  
 38 ceiling element.

39 (A) By November 7, the Board must make available a staff  
 40 draft ceiling element to the County Executive and other  
 41 county agencies for their use in preparing recommended  
 42 capital improvement programs for the next fiscal year.

43 (B) By May 1, the Board must:

44 (i) for each policy area, calculate the existing pipeline of  
 45 approved development permits, including preliminary  
 46 subdivision plans, sewer authorizations, record plats, and  
 47 building permits;

48 (ii) for each policy area, recommend growth ceilings based on  
 49 transportation capacity, for both residential and  
 50 employment land uses, consistent with the latest  
 51 information in relevant portions of the upcoming county,  
 52 state, and municipal capital improvement programs;

- 53 (iii) for each high school cluster, recommend whether public  
 54 school capacity will be adequate to serve planned growth;  
 55 and  
 56 (iv) list any roads, transit, and school facilities that should not  
 57 be counted in calculating growth ceilings.
- 58 (2) Every [2 years, beginning in 1995] odd-numbered year, the  
 59 Planning Board must produce a recommended growth policy  
 60 [element].
- 61 [(A)] (1) By [May 1] June 15, the Planning Board must send to the  
 62 County Council a staff draft growth policy [element] which  
 63 includes:
- 64 [(i)] (A) a status report on general land use conditions in the  
 65 county, including the remaining growth capacity of zoned  
 66 land, recent trends in real estate transactions, the level of  
 67 service conditions of major public facilities and  
 68 environmentally sensitive areas, and other relevant  
 69 monitoring measures;
- 70 [(ii)] (B) a forecast of the most probable trends in population,  
 71 households, and employment for the next 10 years,  
 72 including key factors that may affect the trends;
- 73 [(iii)] (C) a recommended set of policy guidelines for the  
 74 Planning Board, and other agencies as appropriate, with  
 75 respect to [their] administration of laws and regulations  
 76 which affect growth and development; and
- 77 [(iv)] (D) any other information or recommendations relevant to  
 78 growth policy, or requested by the County Council in the

79 course of adopting the [annual] growth policy or by a later  
 80 resolution.

81 [(B)] (2) By [June 15] August 1, the Board must produce a  
 82 recommended growth policy [element] which reflects the  
 83 Planning Board's views [on the items in subsection (2)(A)(iii) and  
 84 (2)(A)(iv)].

85 (3) The Planning Board must promptly make available to the County  
 86 Executive, other agencies (including the Office of Zoning and  
 87 Administrative Hearings and the People's Counsel), and the  
 88 public copies of the staff draft and the Board's recommended  
 89 [ceiling and] growth policy [elements].

90 (d) Duties of the County Executive.

91 [(1) By May 15 of each year, the County Executive must send to the  
 92 County Council a recommended ceiling element, including:

93 (A) growth ceilings based on transportation capacity, for both  
 94 residential and employment land uses, consistent with the  
 95 latest information in relevant portions of the upcoming  
 96 county, state, and municipal capital improvement  
 97 programs;

98 (B) recommendations regarding whether public school  
 99 capacity will be adequate to serve planned growth; and

100 (C) a list of any roads, transit, and other school facilities that  
 101 should not be counted in calculating growth ceilings.]

102 [(2)] (1) Every [2 years, beginning in 1995] odd-numbered year, the  
 103 County Executive must send to the County Council by [August  
 104 1] September 15 any revisions to the [recommended] growth

105 policy [element of] recommended by the Planning Board in the  
 106 form of specific additions and deletions.

107 [(3)] (2) The County Executive must promptly make available to the  
 108 Planning Board, other agencies, and the public copies of the  
 109 County Executive's recommendations.

110 [(4)] (3) The County Executive must assist the Planning Board to  
 111 compile its status report for the recommended [annual] growth  
 112 policy by making available monitoring data which is routinely  
 113 collected by executive branch departments.

114 [(5)] The County Executive should use the information in the Planning  
 115 Board staff's draft ceiling element as a reference document in  
 116 preparing the recommended capital improvement program for the  
 117 next fiscal year, particularly with respect to the linkage between  
 118 future capital construction schedules and policy area capacity  
 119 ceilings.]

120 (e) Duties of the [Montgomery] County Board of Education.

121 [(1)] Each year, the Board of Education must:

122 (A) by February 15 send the County Council any comments on  
 123 the County Executive's recommended capital improvement  
 124 program as it pertains to the annual growth policy; and

125 (B) by June 1 send the County Council any comments on the  
 126 recommended ceiling elements submitted by the Planning  
 127 Board and the County Executive, including any revisions  
 128 in the form of specific additions or deletions.]

129 [(2)] (1) Every [2 years, beginning in 1995] odd-numbered year, the  
 130 Board of Education must send to the County Council by  
 131 [September 1] October 1 any comments on the recommended

132 growth policy [element] submitted by the Planning Board and the  
 133 Executive's recommendations, including any proposed revisions  
 134 in the form of specific additions or deletions.

135 [(3)] (2) The Board of Education must promptly make available to the  
 136 Planning Board, the County Executive, and the public copies of  
 137 these comments and revisions.

138 [(4)] (3) [During the year, the] The Board of Education must assist the  
 139 Planning Board to compile its status report for the [draft annual]  
 140 growth policy by making available monitoring data which is  
 141 routinely collected by Montgomery County Public Schools staff  
 142 [of the Board of Education].

143 (f) Duties of the Washington Suburban Sanitary Commission.

- 144 [(1)] Each year, the Washington Suburban Sanitary Commission must:
- 145 (A) by February 15 send the County Council any comments on
  - 146 the County Executive's recommended capital improvement
  - 147 program as it pertains to the annual growth policy; and
  - 148 (B) by June 1 send the County Council any comments on the
  - 149 recommended ceiling elements submitted by the Planning
  - 150 Board and the County Executive, including any revisions
  - 151 in the form of specific additions or deletions.]

152 [(2)] (1) Every [2 years, beginning in 1995] odd-numbered year, the  
 153 Washington Suburban Sanitary Commission must send to the  
 154 County Council by [September 1] October 1 any comments on  
 155 the recommended growth policy [element] submitted by the  
 156 Planning Board and the Executive's recommendations, including  
 157 any proposed revisions in the form of specific additions or  
 158 deletions.

159 [(3)] (2) The [Washington Suburban Sanitary] Commission must  
 160 promptly make available to the Planning Board, the County  
 161 Executive, and the public copies of these comments and  
 162 revisions.

163 [(4)] (3) During the year, the [Washington Suburban Sanitary]  
 164 Commission must assist the Planning Board to compile its status  
 165 report for the [draft annual] growth policy by making available  
 166 monitoring data which is routinely collected by Commission staff  
 167 [of the Washington Suburban Sanitary Commission].

168 (g) Duties of the County Council.

169 (1) After [receipt of either a ceiling element or a policy element]  
 170 receiving the recommended growth policy, the recommendations  
 171 of the County Executive, and [the] any other agency comments,  
 172 the County Council must hold a public hearing on the [draft,]  
 173 recommendations and comments.

174 [(2)] No later than July 15 of each year, the County Council must  
 175 adopt a ceiling element to be effective until the following July 15.  
 176 If the County Council does not adopt a new ceiling element, the  
 177 ceiling element adopted most recently remains in effect.]

178 [(3)] (2) Every [2 years, beginning in 1995] odd-numbered year, the  
 179 County Council must adopt by November [1] 15 a growth policy  
 180 [element] to be effective until November [1] 15 two years later.  
 181 If the County Council does not adopt a new growth policy  
 182 [element], the growth policy [element] adopted most recently  
 183 remains in effect.

184 (h) Amending the [annual] growth policy.

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- (1) The County Council, the County Executive, or the Planning Board may initiate an amendment to [either the ceiling element or] the growth policy [element].
- (2) If the [County] Executive initiates an amendment:
  - (A) the [County] Executive must send it to the [County] Council, the Planning Board, and other agencies, and make copies available to the public;
  - (B) the Planning Board must send any comments on the proposed amendment to the [County] Council and the other agencies within 45 days after receiving the amendment (unless the Council requests an earlier response), and must make copies of any comments available to the public; and
  - (C) the [County] Council may amend [either the ceiling element or] the growth policy [element] after [receiving] giving the Planning [Board's comments] Board and Board of Education an opportunity to comment and holding a public hearing.
- (3) If the Planning Board initiates an amendment:
  - (A) the Planning Board must send it to the [County] Council, the [County] Executive, and other agencies, and make copies available to the public;
  - (B) the [County] Executive must send any comments on the proposed amendment to the [County] Council and other agencies within 45 days after receiving the amendment (unless the Council requests an earlier response), and must make copies of any comments available to the public; and

212 (C) the [County] Council may amend [either the ceiling  
213 element or] the growth policy [element] after [receiving]  
214 giving the [County Executive's comments] Executive and  
215 Board of Education an opportunity to comment and  
216 holding a public hearing.

217 (4) If the County Council initiates an amendment:

218 (A) the [County] Council must send it to the [County]  
219 Executive, the Planning Board, and other agencies, and  
220 make copies available to the public;

221 (B) the [County] Executive and the Planning Board must send  
222 any comments on the proposed amendment to the [County]  
223 Council and other agencies within 45 days after receiving  
224 the amendment (unless the Council requests an earlier  
225 response), and must make copies of any comments  
226 available to the public; and

227 (C) the County Council may amend [either the ceiling element  
228 or] the growth policy [element] after a public hearing.

229 (5) If it finds that an emergency [exists] so requires, the County  
230 Council may hold the public hearing and adopt an amendment  
231 before receiving comments under subparagraphs (2)(B), (3)(B),  
232 or (4)(B).

233 Sec. 2. Sections 2-25, 8-30, 8-31, 8-34, 8-37, 14-3, 14-7, 25B-1, 33A-17,  
234 42A-9A, 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-29, 52-  
235 47, 52-48, 52-49, 52-60, 52-61, and 52-88 are amended as follows:

236 **2-25. Planning implementation.**

237 \* \* \*

238 (b) Duties. The Office of the County Executive has the following planning  
239 implementation functions:

240 \* \* \*

- 241 (4) (A) Review the Planning Board's draft [[annual]] growth  
242 policy and recommend revisions to the Executive;
- 243 (B) Coordinate the use of information in this draft with the  
244 formulation of capital improvements program  
245 recommendations;
- 246 (C) Draft [[the Executive's recommended annual growth policy  
247 ceiling element, and]] comments on the Planning Board's  
248 [[draft]] proposed growth policy [[element,]] for  
249 submission to the County Council;

250 \* \* \*

251 **8-30. Purpose; definitions.**

252 (a) Purpose. The purpose of this article is to avoid the premature  
253 development of land where public facilities, including transportation,  
254 are inadequate. It is intended to promote better timing of development  
255 with the provision of adequate public facilities.

256 (b) Definitions. In this article, the following words and phrases have the  
257 meanings stated unless the context clearly indicates otherwise.

258 \* \* \*

259 (5) Timely adequate public facilities determination means an  
260 adequate public facilities determination that is required as a  
261 prerequisite to the issuance of a building permit, or is within the  
262 time limits prescribed by law for the validity of an adequate  
263 public facilities determination, or both. It encompasses all  
264 standards and requirements of the adequate public facilities

265 ordinance and any adopted ~~[[annual]]~~ growth policy, including  
 266 standards for adequacy of transportation facilities ~~[[using both~~  
 267 ~~policy area and local area transportation review]]~~.

268 \* \* \*

269 **8-31. Requirement for timely adequate public facilities determination;**  
 270 **special provisions for proposed non-residential development on pre-1982**  
 271 **recorded or approved lots or parcels.**

272 \* \* \*

273 (b) Requirements for proposed non-residential development on pre-1982  
 274 recorded or approved lots or parcels. Until July 25, 2001, the  
 275 Department of Environmental Protection may issue a building permit,  
 276 without a timely adequate public facilities determination, for a proposed  
 277 non-residential development on a lot or parcel recorded before January  
 278 1, 1982, or otherwise recorded in conformance with a preliminary plan  
 279 of subdivision approved before January 1, 1982, that is registered under  
 280 Section 8-32, if:

- 281 (1) the proposed non-residential development does not add 50 or  
 282 more peak hour trips, in the aggregate; or  
 283 (2) the proposed non-residential development adds 50 or more peak  
 284 hour trips, in the aggregate, but:
- 285 ~~[[i)]~~ (A) will not produce excessive congestion, as determined  
 286 under the ~~[[legislative guidelines contained in the annual]]~~  
 287 ~~adopted~~ growth policy and related ~~[[administrative~~  
 288 ~~regulations]]~~ guidelines for local area transportation  
 289 review; or  
 290 ~~[[ii)]~~ (B) received a partial exemption from local area  
 291 transportation review requirements under Section 8-33.

A non-residential development under this paragraph that is located in a policy area with no net remaining transportation ceiling capacity under the [[annual]] growth policy must also be subject to a traffic mitigation agreement executed with the Department of Public Works and Transportation.

\* \* \*

**8-34. Administrative procedures.**

\* \* \*

(f) Decision by Director.

(1) Administrative Decision. After receiving the recommendations of the Planning Board and the Director of the Department of Public Works and Transportation, the Director must decide on an application and any request for an exemption, using the criteria of this Article, the adequate public facilities ordinance, any adopted [[annual]] growth policy, and related administrative regulations, as appropriate. The Director may issue, deny, or condition any permit, as appropriate, including requiring the execution by the applicant of agreements with the Planning Board or the Department of Public Works and Transportation.

\* \* \*

**8-37. Payment.**

(a) Any person who receives approval of a preliminary plan of subdivision under [[the]] any Alternative Review [[Procedures]] Procedure for Transportation Facilities adopted in the [[Annual]] Growth Policy which requires a Development Approval Payment must pay a Development Approval Payment to the Director of Finance.

\* \* \*

319 **14-3. Definitions.**

320 (a) Adequate Public Facility means any infrastructure improvement  
 321 required by the Planning Board as a condition of approving a  
 322 preliminary plan of subdivision under Section 50-35(k) or identified in  
 323 the [[Annual]] Growth Policy as necessary for adequate public facilities  
 324 approval in a development district.

325 \* \* \*

326 **14-7. Planning Board Review; Compliance with Adequate Public**  
 327 **Facilities and Annual Growth Policy Requirements.**

328 (a) After the Council has adopted a resolution under Section 14-6, one or  
 329 more owners of land located in the proposed district may submit an  
 330 application for provisional adequate public facilities approval, covering  
 331 the entire proposed district, to the Planning Board. The application  
 332 must:

- 333 (1) explain how each development located in the proposed district
- 334 will comply with all applicable zoning and subdivision
- 335 requirements, including any action necessary under Section 50-
- 336 35(k);
- 337 (2) identify any infrastructure improvement necessary to satisfy the
- 338 [[Annual]] Growth Policy's adequate public facilities
- 339 requirements for a development district; and
- 340 (3) estimate the cost to provide each such improvement.

341 (b) Within a reasonable time, the Board must jointly review for compliance  
 342 with Section 50-35(k) and the [[Annual]] Growth Policy all  
 343 developments located in the proposed district as if they were one  
 344 development. In that review, the Board must apply all otherwise  
 345 applicable standards and procedures. The Board may conditionally

346 approve an application if it finds that the proposed district will meet all  
 347 requirements under Section 50-35(k) and any added requirements which  
 348 apply to a district under the ~~[[Annual]]~~ Growth Policy. The Board may  
 349 condition its approval on, among other things, the creation and funding  
 350 of the district and the building of no more than the maximum number of  
 351 housing units and the maximum nonresidential space listed in the  
 352 petition filed under Section 14-6 or any later amendment to the petition.

353 (c) In the aggregate, the applications approved must commit the applicants  
 354 to produce (through the funding of the proposed development district or  
 355 otherwise) the infrastructure improvements needed to meet the  
 356 applicants' adequate public facility requirements in the proposed district  
 357 and any added requirements which apply to an applicant under the  
 358 ~~[[Annual]]~~ Growth Policy. In its approval, the Board must list those  
 359 infrastructure improvements.

360 \* \* \*

361 (e) (1) After a development district is created and the financing of all  
 362 required infrastructure improvements is arranged, any development  
 363 located in the district has for all purposes satisfied:

- 364 (A) the adequate public facility requirements of Section 50-  
 365 35(k);
- 366 (B) any added requirements which apply to a district under the  
 367 ~~[[Annual]]~~ Growth Policy; and
- 368 (C) any other requirement to provide infrastructure  
 369 improvements which the County adopts within 12 years  
 370 after the district is created.

371 (2) This subsection does not relieve any taxpayer from paying a  
 372 generally applicable County tax, assessment, fee, or charge.

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**25B-1. Legislative findings.**

\* \* \*

(f) The County has well-developed processes for determining the need for facilities and amenities. These processes, which provide for extensive public participation, include the capital improvements program process, the master plan and sector plan processes, zoning, the development approval process, including subdivision regulation, adequate public facilities ordinance, [[annual]] growth policy, site plan review, and special exception and variance procedures. Nevertheless, stimulating public advocacy and participation in the development of affordable and assisted-family housing can have a beneficial effect on public understanding and support for such housing.

\* \* \*

**33A-17. Land use information functions.**

(a) The Planning Board must provide informational and referral services on County land use and related regulatory functions to interested members of the public. The services to be provided include technical assistance and information on:

- (1) master plans, including pending amendments;
- (2) zoning, including pending cases and pending text amendments;
- (3) subdivision control, including pending applications and amendments to Chapter 50;
- (4) [[annual]] growth policy and related regulatory requirements;
- (5) federal, state, and local environmental regulations; and
- (6) related administrative, regulatory, or legislative procedures applicable to the Planning Board, Office of Zoning and

400 Administrative Hearings [[Hearing Examiner]], Historic  
401 Preservation Commission, Board of Appeals, other County  
402 regulatory agencies, Washington Suburban Sanitary Commission,  
403 and County Council.

404 \* \* \*

405 **42A-9A. Traffic mitigation agreements for certain developments.**

406 (a) \* \* \*

407 (4) A traffic mitigation agreement executed under this Section is not  
408 intended to satisfy the requirements of the [[Annual]] Growth  
409 Policy for exceeding [[policy area]] staging ceiling limitations.  
410 Until the County Council adopts specific traffic mitigation or  
411 commuting goals in the [[Annual]] Growth Policy, the goal of a  
412 traffic mitigation agreement is to have the percentage of non-  
413 driver trips employees make during the peak period equal the  
414 percentage of home-based work trips non-drivers make within the  
415 policy area. The mitigation agreement should consider proximity  
416 to Metro and other relevant factors set forth in subsection (e).  
417 The percentage of non-driver trips the employees make during  
418 the peak period must not be lower than 15 percent or the  
419 percentage of home-based work trips using transit, whichever is  
420 greater. The percentage must not be higher than 35 percent. In  
421 determining the appropriate percentage of home-based work trips  
422 for non-drivers under this paragraph, the Department of Public  
423 Works and Transportation must use data of commuting patterns  
424 from the most recent census update.

425 \* \* \*

426 **42A-21. Definitions.**

427 In this Article, unless the context indicates otherwise:

428 \* \* \*

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

431 \* \* \*

432 **42A-22. Findings and purposes.**

433 \* \* \*

434 (f) Transportation demand management should be consistent with any  
435 commuting goals set in the [[Annual]] Growth Policy, and foster  
436 coordinated and comprehensive government, private industry, and  
437 public action to:

- 438 (1) increase transportation capacity;
- 439 (2) reduce existing and future levels of traffic congestion;
- 440 (3) reduce air and noise pollution; and
- 441 (4) promote traffic safety and pedestrian access.

442 \* \* \*

443 **42A-23. Districts; authority of the Department and Planning Board.**

444 (a) The County Council by resolution may create transportation  
445 management districts in any Metro station policy area, which may  
446 include adjacent areas served by the same transportation network, or in  
447 any area where [[policy area]] transportation review applies under the  
448 [[Annual]] Growth Policy.

449 \* \* \*

450 **42A-24. Traffic mitigation plans.**

451 (a) If an employer is subject to this Section, and if the Council by resolution  
452 or in the [[Annual]] Growth Policy has approved the use of traffic  
453 mitigation plans in a given district, the Director must notify the

454 employer by letter that the employer must submit a traffic mitigation  
 455 plan meeting the requirements of this Section.

456 (b) An employer who employs 25 or more employees in a district at any  
 457 time within one year before receiving notice under subsection (a) must  
 458 submit a traffic mitigation plan to the Director.

459 (c) The traffic mitigation plan should be consistent with and contribute to  
 460 the achievement of any commuting goals set in the [[Annual]] Growth  
 461 Policy. A traffic mitigation plan may include an alternative work hours  
 462 program, carpool or vanpool incentives, subsidized transit passes,  
 463 preferential parking, peak period or single-occupancy vehicle parking  
 464 charges, improved bicycle and pedestrian access and safety, telework,  
 465 and other transportation demand management measures.

466 \* \* \*

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

475 **42A-25. Traffic mitigation agreements.**

476 (a) Any proposed subdivision or optional method development in a district  
 477 must be subject to a traffic mitigation agreement if the Planning Board  
 478 and the Director jointly decide, under standards adopted by the Council  
 479 for the adequacy of public transportation, that more transportation

480 facilities or transportation demand management measures are necessary  
481 to meet any commuting goals set in the [[annual]] Growth Policy.

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

487 \* \* \*

488 **42A-26. Annual survey.**

489 \* \* \*

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

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

494 (2) monitor progress toward reaching any commuting goals set in the  
495 [[Annual]] Growth Policy.

496 \* \* \*

497 **42A-27. Executive report.**

498 \* \* \*

499 (c) If any commuting goals set in the [[Annual]] Growth Policy are not met  
500 4 years after a district is created, the Director must recommend  
501 corrective action to the Executive. This action may include mandatory  
502 mitigation measures. If the Executive agrees that such action is  
503 necessary, the Executive should propose appropriate legislation or adopt  
504 appropriate regulations as authorized by law.

505 **42A-29. Transportation Management Fee.**

(a)(1) The Executive may by regulation adopted under method (2) set the amount of a transportation management fee that the Department may annually charge, under the Alternative Review Procedures in the [[Annual]] Growth Policy, an applicant for subdivision or optional method development approval in a district and each successor in interest of that applicant.

\* \* \*

**52-47. Definitions.**

\* \* \*

*[[Annual growth]] Growth policy* means the [[annual]] growth policy most recently adopted under Chapter 33A to provide guidelines for the administration of the Adequate Public Facilities Ordinance.

\* \* \*

*Planning policy area* means any geographic area designated as a transportation policy area in the [[annual]] growth policy.

\* \* \*

**52-48. Findings; purpose and intent.**

(a) The master plan of highways indicates that certain roads are needed in planning policy areas. Furthermore, the [[Annual]] Growth Policy indicates that the amount and rate of growth projected in certain planning policy areas will place significant demands on the County for provision of major highways necessary to support and accommodate that growth.

\* \* \*

**52-49. Imposition and applicability of development impact taxes.**

\* \* \*

532 (c) The following impact tax districts are established, consisting of the  
533 listed Planning Policy Areas as defined in the [[Annual]] Growth  
534 Policy:

535 \* \* \*

536 **52-60.Payment.**

537 Any person who applies for approval of a preliminary plan of subdivision  
538 under the Alternative Review Procedure for Expedited Development Approval  
539 adopted in the [[Annual]] Growth Policy must pay an expedited development  
540 approval excise tax to the Director of Finance. The applicant, or the applicant's  
541 successor in interest, must pay:

542 \* \* \*

543 **52-61.Rates.**

544 (a) As used in this Section, a moratorium policy area is any policy area  
545 created under the [[Annual]] Growth Policy in which the amount of  
546 previously approved development exceeds the applicable jobs or  
547 housing staging ceiling, as defined under the Policy, when the applicant  
548 files a completed application for a preliminary plan of subdivision with  
549 the [[Montgomery County]] Planning Board.

550 \* \* \*

551 **52-88 Findings; purpose and intent.**

552 \* \* \*

553 (g) The County retains the power to determine the public school  
554 improvements to be funded by development impact taxes; estimate the  
555 cost of such improvements; establish the proper timing of construction  
556 of the improvements to meet school capacity needs as identified in the  
557 [[Annual]] Growth Policy; determine when changes, if any, may be

558 necessary in the County CIP; and do all things necessary and proper to  
559 accomplish the purpose and intent of this Article.

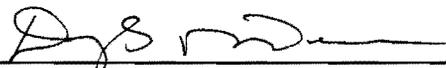
560 \* \* \*

561 **Sec. [[2]] 3. Cross references.** Any reference in any other section of the  
562 County Code, or any other County document, to the Annual Growth Policy refers to  
563 the Growth Policy approved under Code Section 33A-15, as amended by Section 1 of  
564 this Act, with respect to any Growth Policy or amendment to a Growth Policy  
565 approved after this Act takes effect.

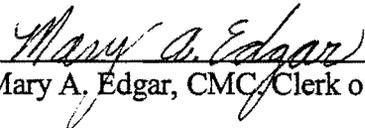
566 *Approved:*

567  Feb. 5, 2004  
\_\_\_\_\_  
Steven A. Silverman, President, County Council Date

568 *Approved:*

569  2/12/04  
\_\_\_\_\_  
Douglas M. Duncan, County Executive Date

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

571  2/17/04  
\_\_\_\_\_  
Mary A. Edgar, CMC, Clerk of the Council Date