

**MEMORANDUM**

March 27, 2015

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: **Action:** Bill 3-15, Streets and Roads – Obstruction Signage

**Transportation, Infrastructure, Energy & Environment (T&E) Committee  
Recommendation (3-0):** enact Bill 3-15 with the following amendment:

- 1) Delete the phrase “at least” from line 12; and
- 2) Require the County’s contact telephone number on the sign instead of the permit holder’s telephone number.

**Background**

Bill 3-15, Streets and Roads – Obstruction Signage, sponsored by Councilmembers Berliner, Navarro, Council Vice President Floreen and Councilmembers Elrich, Huckler, Rice, Riemer and Katz, was introduced on January 20, 2015. A public hearing was held on February 10. The only speaker was a representative of the Maryland Building Industry Association. He expressed concern about the implementation and enforcement of the requirement to post additional information.

Bill 3-15 would require signage concerning a permit to obstruct a right-of-way. Currently pedestrians faced with a closed sidewalk have no easy way to determine how long the sidewalk will be closed and who to contact if they have any questions. At least 4 projects in the past 4 years were authorized for long term sidewalk closures without an alternative pedestrian walkway on the same side of the street. Increased information may have resulted in less disruption for pedestrians.

The fiscal impact statement provided in a memorandum to Council President Leventhal on February 20, 2015 indicated that projected costs would be \$200 to \$1,000 annual due to printing costs for additional signs.

**Public Hearing**

In a memorandum dated February 9, 2015 the Executive supported Bill 3-15. He added:

While construction activity is an important and desired element of our economy, we must work together so that construction impacts of pedestrians, vehicles, bicycles, residents and existing businesses are properly managed and do not become overly disruptive.

Construction that is carried out in a cooperative and sensitive manner is good for the community and local business.

## Issues

### **Should the law be more specific on the details for increased signage?**

As drafted Bill 3-15 leaves all of the details of signage to the Department of Permitting Services with direction from the Department of Transportation. Before the Director issues a permit to close a sidewalk, curb lane, or shared use path, the Director of Transportation must approve a temporary traffic control plan. Under Bill 3-15 the permit and the traffic control plan must require signage during construction to, “at least”, inform pedestrians about the duration of the obstruction, the permit number, and the permit holder’s telephone number. The size of the sign, the size of the text, the location of the sign, and the possible number of signs are all left to the Director. The County Executive may issue regulations under method (2) to implement to implement Bill 3-15.

The phrase “at least” anticipated that the duration of obstruction, the permit number and a contact telephone number could be part of even more information. The Department of Transportation Staff recommended deleting “at least” so that the information on the sign concerning sidewalk closures will be, in their words, “shorter than *War and Peace*”.<sup>1</sup>

*The Committee recommended deleting the phrase “at least” from line 12”.<sup>2</sup>*

### **Should the applicant holder’s telephone number be listed of the required sign?**

The DPS Director noted that an inspection would be automatically scheduled whenever a sidewalk closure was scheduled to reopen. Given that the County wanted to immediately know about complaints, County staff recommended having a County contact telephone number on the sign and not the applicant’s number.

*The Committee recommended requiring the County’s contact telephone number on the sign instead of the permit holder’s telephone number.*

This packet contains:	Circle #
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<sup>1</sup> The paperback addition of *War and Peace* contains approximately 560,000 words and required 1,225 pages of text in its first edition. It is the ninth longest novel according to Amazon. Such works as *Les Miserables* and *Atlas Shrugged* are longer. *In Search of Lost Time* by Marcel Proust is the longest novel; the author needed over 1,000,000 word to complete that work.

<sup>2</sup> The Committee neither discouraged nor advocated reading *War and Peace*, but was in favor of only helpful information on signs.

Bill No. 3-15  
Concerning: Streets and Roads -  
Obstruction Signage  
Revised: Jan. 6, 2015 Draft No. 2  
Introduced: January 20, 2015  
Expires: July 20, 2016  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Berliner, Navarro, Floreen, Elrich, and Hucker

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**AN ACT** to:

- (1) require signage concerning a permit to obstruct a right-of way; and
- (2) generally amend the law concerning a permit to obstruct any public right-of-way.

By amending

Montgomery County Code  
Chapter 49, Streets and Roads  
Section 49-11

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

1 **Sec. 1 Section 49-11 is amended as follows:**

2 **49-11. Permit to obstruct public rights-of-way.**

3 \* \* \*

4 (g) Before the Director issues a permit under this Section to close a  
5 sidewalk, curb lane, or shared use path, the Director of Transportation  
6 must approve a temporary traffic control plan.

7 (1) A professional engineer must certify for the applicant that the  
8 plan minimizes inconvenience to the public, provides necessary  
9 warnings, and includes safe and reasonable pedestrian  
10 alternatives in accordance with accepted engineering standards.

11 (2) The permit and the traffic control plan must require signage  
12 during construction to [[, at least,]] inform pedestrians about the  
13 duration of the obstruction, the permit number, and the [[permit  
14 holder's]] County contact telephone number to call.

15 \* \* \*

16 *Approved:*

17 \_\_\_\_\_  
George Leventhal, President, County Council Date

18 *Approved:*

19 \_\_\_\_\_  
Isiah Leggett, County Executive Date

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

21 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 3-15

### *Streets and Roads – Obstruction Signage*

**DESCRIPTION:** Permits that allow an obstruction in public right-of-way will be required to post informational signs. These signs will be intended to inform pedestrians about the obstruction and contact information.

**PROBLEM:** Pedestrians face closed sidewalks without knowing the terms and conditions of the closure or contact information for the party responsible for the closure.

**GOALS AND OBJECTIVES:** To provide information for pedestrians.

**COORDINATION:** Department of Permitting Services, Department of Transportation

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Jeff Zyontz, Legislative Attorney, 240-777-7896

**APPLICATION WITHIN MUNICIPALITIES:** Applies to all areas where County issues right-of-way obstruction permits.

**PENALTIES:** Revocation of a permit and a cease and desist order concerning the obstruction.



ROCKVILLE, MARYLAND

MEMORANDUM

February 20, 2015

TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 3-15, Streets and Roads - Obstruction Signage

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Diane Jones, Department of Permitting Services  
Christy Contreras, Department of Permitting Services  
David Platt, Department of Finance  
Alex Espinosa, Office of Management and Budget  
Dennis Hetman, Office of Management and Budget  
Felicia Zhang, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement**  
**Council Bill 3-15 Streets and Roads – Obstruction Signage**

1. Legislative Summary:

Bill 3-15 provides a means for requiring signage to be placed by permittees when obstructions to the public right-of-way occur due to permitted construction. As noted in the Bill, pedestrians faced with a closed sidewalk have no easy way to determine how long the sidewalk will be closed and who to contact if they have questions. Furthermore, at times construction interferes with access to local businesses. The Bill requires that a phone number for the permittee be included as a point of contact.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Changes to County revenues and expenditures are negligible as the bill only requires printing of signs to be handed out by DPS Right-of-Way Inspectors for posting when closures occur per the permitted construction. DPS estimates the need for approximately 1,500 signs per year at a cost of \$2,000 annually (\$1.33 per sign). Maintenance of Traffic Plans typically extend over a period of 18 to 24 months. In 2013 there were 144 Maintenance of Traffic Plans and in 2014 there were 159. Assuming one to five signs per project annually, the signs would cost the department approximately \$200 - \$1,000 which would be recovered through the permit process. The department is already required to inspect implementation of the Maintenance of Traffic Plans therefore DPS would not incur additional inspection costs.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The only expense is for creation and printing of the signs. Based on the historic number of Maintenance of Traffic Plans approved per year, and the possible need for multiple signs, the Department expects to issue 150 to 750 signs per year. The expenditure estimates would be as follows over the next 6 fiscal years:

Fiscal Year	FY16	FY17	FY18	FY19	FY20	FY21
Expenditure	\$200 - \$1,000					
Revenue	\$200 - \$1,000					

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

This Bill does not authorize future spending.

6. An estimate of the staff time needed to implement the bill.

There is no additional staff time required in order to implement this bill as it is part of an inspection process that is already occurring.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

This bill does not affect other duties. It assists the DPS Right-of-Way Inspectors and County staff as citizens will be able to have direct contact with the permit holder representative to discuss concerns over sidewalk closures. The public will also be informed on the sign as to closure duration.

8. An estimate of costs when an additional appropriation is needed.

No additional appropriation will be needed

9. A description of any variable that could affect revenue and cost estimates.

Revenues and costs would be impacted by the number of signs required per project. The department can fully recover the costs of the signs for a negligible fiscal impact.

The following is the number of Maintenance of Traffic Plans over the past 7 fiscal years:

FY08	FY09	FY10	FY11	FY12	FY13	FY14
99	60	99	101	100	144	159

The number of signs will be impacted by the extent of path, sidewalk, or lane closure and the duration of construction.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

11. If a bill is likely to have no fiscal impact, why that is the case.

This bill is for public right-of-way permittee placement of a sign (non-metal, weather resistant) that is provided by the Department of Permitting Services Right-of-Way Inspector to permit holders when obstruction closures occur. The signs will inform pedestrians of the duration of the closure, who to contact regarding the closure, and will be provided as part of an already occurring inspection.

12. Other fiscal impacts or comments.

Not applicable.

13. The following contributed to and concurred with this analysis:

Diane Jones, DPS

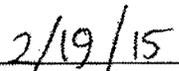
Rick Brush, DPS

Christina Contreras, DPS

Barbara Suter, DPS

Dennis Hetman, OMB

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill 3-15, Streets and Roads – Obstruction Signage**

**Background:**

This legislation would require signage included in the permit and traffic control plan. During construction, the signage would inform pedestrians about the direction of the obstruction, the permit number, and the telephone number of the permit holder.

**1. The sources of information, assumptions, and methodologies used.**

Sources of information include the Department of Permitting Services (DPS). The assumption is that signage will be required for projects currently under permit and for any future projects. Data include the number of commercial permits and the average construction cost for each permit. There are no methodologies used in the preparation of the economic impact statement.

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are the number of current and future permits issued by DPS, the average construction costs, and the costs of preparing and erecting signage for each current and future permit. While there are data on the number and construction costs for current permits, similar data on future permits cannot easily be estimated with any certainty. The uncertainty is attributed to the year-to-year high volatility in terms of the number of permits and the construction costs.

In 2014, there were 1,886 commercial permits issued with total project costs of \$1.063 billion for an average construction cost of approximately \$564,000. During the same year, there were 3,818 residential permits (units) with total project costs of \$0.625 billion for an average cost of \$163,701. Based on data provided by DPS, the average cost for preparing a signage for each permit is approximately \$1.50. Therefore, based on approximately 5,700 commercial and residential permits, the additional costs are \$8,600.

**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

Based on the data provided in paragraph #2, Bill 3-15 would have no significant impact on employment, spending, saving, investment, income, and property values in the County. The cost of preparing the signage is very minimal in terms of the overall costs of the project.

**4. If a Bill is likely to have no economic impact, why is that the case?**

See paragraph #3.

**Economic Impact Statement**  
**Bill 3-15, Streets and Roads – Obstruction Signage**

5. **The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Finance; Christina Contreras, Department of Permitting Services.

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

2/9/15  
Date