Expedited Bill No. 30-16

Concerning: Streets and Roads – Amendments

Revised: 6/6/2016 Draft No. 1

Introduced: July 12, 2016

Enacted: August 2, 2016

Executive: August 10, 2016

Effective: August 10, 2016

Sunset Date: None

Ch. 29 , Laws of Mont. Co. 2016

**County Council**

**For Montgomery County, Maryland**

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

**AN EXPEDITED ACT** to:

1. clarify that a person may not exercise control over, or otherwise occupy, the public right-of-way;
2. define certain terms in Chapter 49; and
3. generally amend County law regarding rights-of-way and streets and roads.

By amending

 Montgomery County Code

 Chapter 49, Streets and Roads

 Sections 49-10 and 49-26

**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. Sections 49-10 and 49-26 are amended as follows:**

**49-10. Obstruction of public rights-of-way.**

    Except as provided in Section [49-11](http://library.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=maryland(montgom)$jumplink_q=%5bfield%20folio-destination-name:%2749-11%27%5d$jumplink_md=target-id=JD_49-11), in the public right-of-way, a person must not:

(a) place, maintain, use, or exercise control over, any object or structure in the public right-of-way;

(b) allow any object or structure owned by the person to occupy, obstruct, or encroach upon the public right-of-way;

**[**(a)**]** (c) **[**do**]** perform any reconstruction or maintenance work; or

**[**(b)**]** (d) allow the **[**erect**]** erection or **[**place**]** placement of any structure, fence, post, rock, or other object in the public right-of-way, except:

(1)    mail boxes mounted on a support that will bend or break away on impact by a vehicle;

(2)    individual residential newspaper boxes mounted on a support that will bend or break away on impact by a vehicle;

(3)    street trees placed and maintained under Section [49-33](http://library.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=maryland(montgom)$jumplink_q=%5bfield%20folio-destination-name:%2749-33%27%5d$jumplink_md=target-id=JD_49-33)(j);

(4)    ground cover placed and maintained under Section [49-33](http://library.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=maryland(montgom)$jumplink_q=%5bfield%20folio-destination-name:%2749-33%27%5d$jumplink_md=target-id=JD_49-33)(k);

(5)    a temporary, removable obstruction or occupation of a right‑of‑way installed under a permit issued under Section [49‑11](http://library.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=maryland(montgom)$jumplink_q=%5bfield%20folio-destination-name:%2749-11%27%5d$jumplink_md=target-id=JD_49-11); or

(6)    as otherwise permitted by law.

    Any object placed in the public right-of-way under **[**this subsection**]** Section 49-10(d) must not unreasonably impede use of a sidewalk or other right-of-way by pedestrians or persons in wheelchairs, or impede or endanger automobiles or other vehicles.

 \* \* \*

* 1. **Definitions.**

*Bikeway*: any area expressly intended for bicycle travel, including any:

(a) *Shared use path*: A paved path that abuts, is contiguous with, and is a part of the right-of-way for a County road or street, that is typically 10 feet wide, but can vary between 8 feet and 14 feet wide, designated for bicycles and pedestrians, and that is separated from motorized traffic by a curb, barrier, or landscape panel.

(b) *Shared use trail*:A paved or unpaved trail designated for bicycles and pedestrians, that is not part of the right-of-way for a County road or street because the trail does not abut and lie contiguous with the right of way for a County road or street.

**[**(b)**]** (c) *Bike lane*: A portion of a roadway designated by striping, signing, or pavement markings for the preferential or exclusive use of bicycles, and on which through-travel by motor vehicles is not allowed.

**[**(c)**]** (d) *Shared use roadway*:A roadway open to both bicycle and motor vehicle travel and which is designated as a preferred route for bicycle use by warning or informational signs.

**[**(d)**]** (e) *Separated bike lane*, also known as a protected bike lane or cycle track:  a bikeway that is physically separated from motor vehicles and pedestrian facilities.  The separation may be vertical, such as a curb; horizontal, such as a landscape panel or parking lane; or a combination.  A separated bike lane may be in a one-way or two-way configuration.

**[**(e)**]** (f) *Buffered bike lane*:  a bikeway separated from a motor vehicle travel

lane with an area of striped pavement.

 \* \* \*

*Road*: any road, street, highway, avenue, lane, alley, **[**or viaduct, or any segment of any of them.**]** bridge, shared use path, sidewalk, viaduct, or any segment of any of them, and any related storm drain and stormwater management facility.

 \* \* \*

 *Sidewalk*:any portion of the right-of-way for a County road or street that is expressly intended as a pedestrian walkway **[**that fronts a road**]**.

 \* \* \*

**Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

*Approved:*

/s/ 8/2/16

Nancy Floreen, President, County Council Date

*Approved:*

/s/ 8/10/16

Isiah Leggett, County Executive Date

*This is a correct copy of Council action.*

/s/ 8/12/16

Linda M. Lauer, Clerk of the Council Date