

**Sec. 42A-20A. Reserved.**

**Editor's note**—Sec. 42A-20A was repealed by [2002 L.M.C., ch. 34](#), § 1. Note that § 42A-20A was enacted as § 42A-20 under Article III by 1993 L.M.C., ch. 47, § 1. This section was editorially renumbered § 42A- 20A to avoid duplication with the final section of Art. II, also numbered § 42A-20.

**Sec. 42A-21. Definitions.**

In this Article, unless the context indicates otherwise:

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

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

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

*Commute* means a home-to-work or work-to-home trip.

*Department* means the Department of Public Works and Transportation.

*Director* means the Director of the Department of Public Works and 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.

*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 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;
- (2) a home-based business;

- (3) a business with no employees housed at that work site;
- (4) any business with no permanent workplace or location; or
- (5) any government agency not required by law to follow County regulations.

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

*Peak period* means the hours of highest transportation use in a district each workday, as defined in the resolution creating a district.

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

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

*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.

*Transportation demand management* means any method of reducing demand for road capacity during a peak period, including an alternative work hours program, carpools, vanpools, subsidized transit pass, preferential parking, improved bicycle and pedestrian access and safety, or peak period parking charge.

*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.

*Workplace* means the place of employment, base of operations, or predominant location of an employee. (1993 L.M.C., ch. 47, § 1; 1996 L.M.C., ch. 4, § 1; [2002 L.M.C., ch. 34, § 1](#); [2004 L.M.C., ch. 2, § 2](#).)

#### **Sec. 42A-22. Findings and purposes.**

(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, pedestrian access, 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, and promote traffic safety and pedestrian access; and

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

(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, and the public.

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

(1) increase transportation capacity;

(2) reduce existing and future levels of traffic congestion;

(3) reduce air and noise pollution; and

(4) promote traffic safety and pedestrian access.

(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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

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

(a) The County Council by resolution may create a transportation management district in:

(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.

(b) 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) regulating or limiting public parking, by regulation adopted under method (2);
- (2) monitoring and assessing traffic patterns and pedestrian access and safety;
- (3) adopting traffic and parking control measures;
- (4) providing approved transportation-related capital projects;
- (5) promoting or implementing transit and ridesharing incentives;
- (6) promoting regional cooperation between the County and other government agencies;
- (7) creating cooperative County-private sector programs to increase ridesharing and transit use; and
- (8) conducting surveys, studies, and statistical analysis to determine the effectiveness of traffic mitigation plans and employer efforts.

(c) In each transportation management 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.

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

(e) 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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2; [2006 L.M.C., ch. 1](#), § 1.)

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

(a) If an employer is subject to this Section, and if the Council by resolution or in the Growth Policy has approved the use of traffic mitigation plans in a given 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) 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 to the Director.

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

(d) Each employer must submit its traffic mitigation plan within 90 days after receiving notice under subsection (a). The Director may extend an employer's time to file a traffic mitigation plan for good cause.

(e) (1) An employer may submit a consolidated traffic mitigation plan with other employers in the same building or building complex. An owner of a nonresidential building in a district may submit a consolidated traffic mitigation 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.

(f) (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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

**Editor's note**—2002 L.M.C., ch. 34, § 2, Phase-in, states: (a) An employer that employs 50 or more employees and has received notice under Section 42A-24(a) must submit an initial traffic mitigation plan that meets the requirements of this Section to the Director by January 1, 2004. (b) An employer that employs 25 to 49 employees and has received notice under Section 42A-24(a) must submit an initial traffic mitigation plan that meets the requirements of this Section to the Director by January 1, 2005.

#### **Sec. 42A-25. Traffic mitigation agreements.**

(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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

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

(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.

(d) 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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

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

(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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34, § 1](#); [2004 L.M.C., ch. 2, § 2.](#))

#### **Sec. 42A-28. Regulations.**

The Executive may adopt regulations under method (2) to implement this Article. (1993 L.M.C., ch. 47, § 1.)

#### **Sec. 42A-29. Transportation Management Fee.**

(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.

(c) *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.

(d) *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.

(e) *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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34, § 1](#); [2004 L.M.C., ch. 2, § 2](#); [2006 L.M.C., ch. 1.](#))

**Editor's note**—See County Attorney Opinion dated [4/26/05](#) discussing the Council's role in setting certain transportation fees and the Executive's role in setting transportation management fees.

**Sec. 42A-30. Enforcement.**

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. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1.)

## Notes

[\[Note\]](#) \*Editor's note—1988 L.M.C., ch. 18, § 1, changed the title of ch. 42A from “Ridesharing” to “Ridesharing and Transportation Management.”

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