



Committee: T&E

Committee Review: At a future date

Staff: Livhu Ndou, Legislative Attorney
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Purpose: To introduce agenda item – no vote expected

Keywords: #CompleteStreets

AGENDA ITEM #5B, 7D, 7E

July 26, 2022

Introduction

SUBJECT

Bill 24-22, Streets and Roads

Lead Sponsor: Council President Alborno at the Request of the County Executive

Zoning Text Amendment (ZTA) 22-10, Streets and Roads

Subdivision Regulation Amendment (SRA) 22-01, Streets and Roads

Lead Sponsor: Council President Alborno at the Request of the Planning Board

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

Bill 24-22, ZTA 22-10, and SRA 22-01 will make changes to several chapters of the County Code to implement the Complete Streets Design Guide.

SUMMARY OF KEY DISCUSSION POINTS

- The 2021 Complete Streets Design Guide provides policy and design guidance on the planning, design, and operation of county roadways, consistent with the County's Vision Zero goals. Here is a link to the Guide:
https://montgomeryplanning.org/wp-content/uploads/2022/03/Montgomery-County-CSDG_Approved-2021.pdf.
- Bill 24-22 revises Chapter 49, Streets and Roads, to apply complete streets standards to the design and construction of roads and road improvements.
- ZTA 22-10 revises Chapter 59, the Zoning Ordinance, by replacing the existing road types referenced throughout with the new Complete Streets Design Guide road types.
- SRA 22-01 revises Chapter 50, Subdivision of Land, by updating the standards for intersection spacing, providing new guidance on protected intersections, and replacing all occurrences of existing street types with the new street typologies from the Complete Streets Design Guide.
- Public hearing on Bill 24-22, ZTA 22-10, SRA 22-01, and the Complete Streets Design Guide is tentatively scheduled for September 20, 2022.

This report contains:

Bill 24-22

© 1

ZTA 22-10	© 64
SRA 22-01	© 86
Planning Board Memo	© 94
Legislative Request Report	© 96
Fiscal Impact Statement	© 97
County Executive Memorandum	© 99

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Bill No. Bill 24-22
Concerning: Streets and Roads
Revised: 7/20/2022 Draft No. 1
Introduced: July 26, 2022
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) amend Chapter 49 to incorporate complete streets principles into the design and construction of roads; and,
- (2) generally amend Chapter 49 to modernize the street and road standards.

By amending

Montgomery County Code

Chapter 49, Streets and Roads

Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

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 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78 are amended as follows:

ARTICLE 1. IN GENERAL.

Sec. 49-1. Compliance with standards; regulations; penalty for violations.

(a) A public road, bridge, sidewalk, or bikeway must not be constructed, reconstructed, repaired, graded, improved or maintained by any person unless the construction, reconstruction, repair, improvement, grading or maintenance fully complies with this Chapter and any regulations issued under it.

* * *

Sec. 49-2. Resolving doubt as to location of County roads.

(a) Whenever any doubt exists as to the proper location or width of a County road, the Director of Transportation may cause the road to be surveyed and a description and plat made of it and recorded [or filed] in the County land records. [This description and plat must be treated as correct by the County and in the State courts until shown to be incorrect.]

* * *

Sec. 49-3. Authority to classify road repairs.

The Director of Transportation may decide whether a [given] road repair [job] should be classified as maintenance or construction under this Chapter.

Sec. 49-4. Public-private participation.

The County Executive[, on behalf of the County,] may contract with any person[,] who is [building a real estate development or subdivision] developing land in the County[,] to participate in the cost of any [street] road, including any sidewalk, bikeway, gutter, curb or drainage construction, landscaping, traffic control device, bikeshare station, electric vehicle charging station, or placement of utilities, conduits, or other amenities in a [street or] road dedicated to public use.

Sec. 49-5. Right to drain dedicated roads without liability to abutting owners.

If any road is dedicated to the use of the public by a private grant, the grant must include the right [at all times] to properly drain the road, including a grant to the County of any necessary easements, without liability of the County to any abutting owner for any resulting injury.

Sec. 49-6. Roads used for 20 years may be declared public highways.

[(a)] Whenever any road has been used by the public for 20 or more years, though the road may never have been condemned or granted as a public [highway] road and regardless of whether the road termini are public, the County Executive may by Executive order published in the County Register declare the road to be [a] public [highway].

[(b)] The public right-of-way of a road declared as a public highway under subsection (a) must include permanent maintenance easements which extend 10 feet beyond each pavement edge.]

Sec. 49-7. Authority of special taxing districts to regulate streets and roads.

[(a)] Any special taxing district which has the authority to pave and maintain streets and roads may adopt and amend reasonable regulations under Method (2) governing the construction, maintenance, improvement,

grading, and repairing of the roads and streets in the district, including those dedicated for public use.

[(b) In adopting regulations, the special taxing district may, by resolution, incorporate any similar County regulation.]

* * *

Sec. 49-9. Removal of items that obstruct the vision of motorists on public highways or interfere with the use of public rights-of-way.

(a) Notice to owner of property. If the Director of Transportation finds that any tree, bush, vine, undergrowth, or other obstruction, except a building or similar structure affixed to the ground, on private property poses a threat to public safety by obstructing the vision of operators of vehicles traveling on any public [street,] road[, or highway,] interfering with the public rights-of-way as a traffic hazard, limiting access by Fire and Rescue Service vehicles, or restricting the use by pedestrians or bicyclists of the public rights-of-way, the Director promptly must serve on the owner, agent, lessee or any other person supervising the property a written notice that:

* * *

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

Except as provided in Section 49-11, in the public right-of-way, a person must not:

- (a) place, maintain, use, permit, allow, 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;]

74 ~~[(c)]~~(b) perform any reconstruction or maintenance work; or

75 ~~[(d)]~~(c) allow the erection or placement of any structure, fence, post, rock, or
76 other object [in the public right-of-way], except:

- 77 (1) [mail boxes] mailboxes mounted on a support that will bend or
78 break away on impact by a vehicle;
- 79 (2) individual residential newspaper boxes mounted on a support that
80 will bend or break away on impact by a vehicle;
- 81 (3) street trees placed and maintained under Section 49-33(j);
- 82 (4) ground cover placed and maintained under Section 49-33(k);
- 83 (5) a temporary, removable obstruction or occupation of a right-of-
84 way installed under a permit issued under Section 49-11; or
- 85 (6) as otherwise permitted by law.

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

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

90 (a) *Definitions.* In this [section] Section, the following terms have the
91 meanings indicated.

92 *Public* includes pedestrians, bicyclists, and transit users.

93 *Safe alternative path* means an alternate [walkway or shared use path]
94 sidewalk or sidepath that:

- 95 (A) is on the same side of the street as a temporary closure; and
- 96 (B) provides safe access and passage to pedestrians.

Temporary closure means a temporary obstruction, blockage, or occupation of a right-of-way under a permit issued by the Director of Permitting Services under this Section.

(b) [Notwithstanding Section 49-10, and subject] Subject to subsections (c) and (d) of this Section, the Director of Permitting Services may issue a permit to:

- (1) reconstruct or repair a sidewalk, [shared use path] sidepath, driveway, curb, or other structure;
- (2) repair, locate, or replace underground utilities or infrastructure under a sidewalk or [shared use path] sidepath;
- (3) install a temporary, removable obstruction or occupation of a right-of-way;
- (4) close a curb lane, sidewalk, or [shared use path] sidepath in conjunction with the construction or reconstruction of an abutting structure;
- (5) install permanent, nonstandard structures in the right-of-way that were approved by the Planning Board, the City of Rockville, or the City of Gaithersburg in a site plan as a site element of streetscape. Streetscape [includes] means street furnishings[, and fixtures [and elements in connection with] used by the public [use of] in the right-of-way but does not include [enclosed] structures [or vaults] or improvements for private use. The permit applicant must execute a declaration of covenants that runs with the land on which [the project associated with] the streetscape [is being developed] will be installed to perpetually maintain the permitted streetscape in a good and safe condition; return the right-of-way to its condition before the permitted streetscape was installed if the

nonstandard permitted streetscape is removed; and indemnify the County from any cost or liability associated with the construction, maintenance, use or removal of the nonstandard permitted streetscape; or

- (6) install a private, non-commercial structure that is accessory to a residential use. The permittee must execute a maintenance and liability agreement that is approved by the Director of the Department of Permitting Services.

* * *

- (d) *Time limits for temporary closures without safe alternative paths.* Except as provided in subsections (e) and (f):

- (1) a temporary closure to reconstruct or repair a sidewalk or [shared use path] sidepath must not exceed 6 months without the provision of a safe alternative path; and
- (2) any other temporary closure must not exceed 15 days without provision of a safe alternative path.

* * *

- (f) *Short extensions for hardship.*

- (1) The Director may grant one extension of a time period under subsection (d), for no more than 15 days, on a showing [of extreme] by the applicant of undue hardship involving significant difficulty or expense.
- (2) The Executive must adopt regulations under Method [(2)] (3) to specify the standards a permittee must meet to demonstrate

[extreme] undue hardship involving significant difficulty or
expense.

* * *

Sec. 49-11A. Permit to temporarily obstruct private roads.

(a) A person must not close any portion of a private road that is an urban road as defined in Section 49-32 without a permit from the Director of Permitting Services.

(b) The Director of Permitting Services may issue a permit for the complete or partial closure of a private road on a temporary basis if the closure does not:

- (1) violate Chapter 22;
- (2) [unreasonably] interfere with use of the private road by persons with disabilities;
- (3) [unreasonably] impede or endanger the users of any building or structure adjacent to or abutting the private road; or
- (4) adversely impact the use of connecting public roads.

* * *

(d) The Director of Permitting Services may charge a fee, set by Method [3] (3) regulation, for the permit application and may include conditions in each permit that provide for the safety of any user of a building or structure adjacent to or abutting the private road, including providing for safe alternate access to and egress from any building or structure.

* * *

Sec. 49-12. Exemptions from Sections 49-10 and 49-11.

(a) Subject to paragraphs (1) and (2), Sections 49-10 and 49-11 do not apply to, and no permit under those Sections is required of, any municipality, special taxing district or government agency [authorized by law] to construct streets, roads, sewers, or drainage facilities in the County over which the entity has jurisdiction. However:

- (1) Sections 49-10 and 49-11 apply to any road that is located in a municipality and owned or maintained by the County; and
- (2) if the County owns or maintains a right-of-way, Section 49-11 applies to any temporary closure of the right-of-way [in connection with construction or reconstruction on abutting property owned by the County].

[(b) Sections 49-10 and 49-11 do not apply to any vehicle operated by a fire department, public utility, or first aid provider, while that vehicle is being used to provide emergency services.]

* * *

Sec. 49-14. Debris likely to injure persons, animals, or vehicles.

A person must not place or leave in or on any public [highway or street] road, any debris liable to cause injury or damage to any vehicle or personal property. Any violation of this Section is a Class C violation.

* * *

Sec. 49-17. Accumulation of snow and ice on property prohibited.

(a) *Legislative [Findings] findings.*

- (1) During significant winter storm events, Montgomery County's sidewalks often become impassable and covered in piles of snow that are pushed aside from the road as a result of County and State snowplows. The scope of the problem is prevalent on

Montgomery County's busiest roads, where sidewalks are often within an arm's reach of traffic.

(2) These blocked sidewalks often persist for days following the end of a snowstorm, creating a significant pedestrian safety hazard that often forces pedestrians to walk in a lawn with oncoming traffic.

(3) County law allocates the responsibility of property owners to clear snow on a public sidewalk fronting their property within 24 hours of the end of snowfall. However, such clearing rarely occurs due to a variety of reasons, including the difficulty of removing the large piles of compacted snow and ice created by plow trucks.

(4) The County, in its current operation, clears sidewalks in urban districts and approximately sixty (60) miles of sidewalks with no adjacent residential or commercial property owner outside of such areas.

(5) Snow-covered and icy sidewalks adversely affect essential workers and commuters, who often travel by foot or public transportation, and must walk along high-traffic roads to get to bus stops and retail stores.

(6) It is in the best interest of the County to adopt fair, reasonable and equitable legislation to address safety hazards and increase walkability access on sidewalks for pedestrians during winter storms.

(b) (1) *Definitions.* In this Section:

(A) *Commercial property* means real property that either:

(i) is not designed for or intended for human habitation;

or

224 (ii) contains a multi-family dwelling of four or more
 225 units.

226 (B) *Residential property* means real property containing either:

227 (i) a [single family] single-family dwelling; or

228 (ii) a [multifamily] multi-family dwelling of three or
 229 fewer units.

230 (C) *Department* means the Department of Transportation.

231 (D) [*Non-Buffered Sidewalk*] Non-buffered sidewalk means a
 232 sidewalk along a roadway that does not contain a grass strip
 233 or other physical separation between the sidewalk and the
 234 adjacent curb or road edge.

235 (E) *Orphan [Sidewalk]* sidewalk means a sidewalk either
 236 abutting a State or County road and be located:

237 (i) adjacent to a vacant lot;

238 (ii) an overpass with no adjacent commercial or
 239 residential property adjoined; or

240 (iii) behind a residential or commercial property that is
 241 not directly accessible from the owner's property and
 242 is separated from the sidewalk by a fence, guardrail,
 243 or change in elevation grade.

244 (2) A person is responsible for removing snow and ice on any
 245 sidewalk, sidepath, other [walkway] areas intended for public
 246 pedestrian access, [shared use path,] or parking area on or adjacent
 247 to property that the person owns, leases, or manages, [including
 248 any walkway in the public right-of-way,] to provide a pathway
 249 wide enough for safe pedestrian and wheelchair use. For purposes

of this Section, commonly owned property between a single-family residential lot and a common [walkway] sidewalk or sidepath is considered part of the lot if the intervening common property includes a [walkway] sidewalk, sidepath, or driveway that serves only that lot.

(3) Except as provided in paragraph (5), each owner, tenant, or manager is jointly and severally responsible for clearing snow and ice from the property and complying with Section 31-26A(d).

(4) The requirements of this Section do not apply to:

(A) an unpaved [walkway] sidewalk;

(B) a private [walkway] sidewalk or parking area on the property of a single-family residence;

(C) a public [walkway] sidewalk or sidepath behind a single-family residence that is not directly accessible from the owner's property;

(D) a [walkway] sidewalk that:

(i) is at least 25 feet from vehicular traffic;

(ii) serves only pedestrian destinations that are also accessible by another [walkway] sidewalk that this Section requires to be cleared;

(iii) was not routinely cleared of snow and ice after August 1999; and

(iv) is not the primary route for pedestrian access to a winter recreational facility open to the public; or

(E) any non-buffered sidewalk or path as specified under Section 49-17(j), regardless if the private property is fronting or abutting the sidewalk.

(5) (A) An individual who lives in a multi-family residential property is not responsible for removing snow and ice from a common [walkway] sidewalk, sidepath, or parking area.

(B) A homeowners' association, as that term is used in State law, is not responsible for removing snow and ice from a [walkway] sidewalk or sidepath adjacent to a single-family residential lot, if the lot owner is responsible under paragraph (1) for removing snow and ice from that [walkway] sidewalk or sidepath.

(c) If ice or hardpacked snow is impossible or unreasonably difficult to remove, the person is responsible for applying sufficient sand, other abrasives, or salt to provide safe pedestrian use.

(d) The person is responsible for removing snow and ice within 24 hours after the end of the precipitation that caused the condition. If a snowplow redeposits snow or ice on a sidewalk, sidepath or other [walkway] area intended for pedestrian access after a person has complied with this Section, the person is not responsible for clearing the [walkway] area until 24 hours after the snowplow redeposited the snow or ice.

- (e) The County Executive must designate a department to enforce this Section and may designate other County employees or contractors to enforce this Section.
- (f) The Executive may order a different deadline or conditions for removing snow and ice during or immediately after a severe or unusual storm or other public-safety condition.
- (g) In addition to any other remedy or penalty for a violation of this Section, the County may clear the snow and ice and charge the responsible property owner for the cost, which the County may collect in the same manner as property taxes.
- (h) *Violations.*
- * * *
- (i) *Sidewalk [Snow Removal Plan] snow removal plan.*
- * * *
- (j) *Sidewalk [Snow Removal] snow removal – Required.* The Executive must implement a plan and require the Department to remove or cause to be removed snow and ice accumulation from the last day of precipitation within the following designated areas:
- * * *

Sec. 49-19. Conversion of overhead lines to underground locations.

If the construction or improvement of any County road requires any person to relocate any overhead electric, telephone, or other overhead line or related facility in any County road right-of-way, the County Executive must, by regulation adopted under [method] Method (3), require that any affected line must be installed underground if the Executive finds that underground installation is desirable after considering the following factors:

* * *

Any regulation to implement this Section must require the replacement of any street light removed during the [conversion of any line to an underground location] installation of underground facilities.

Sec. 49-19A. [Energy-efficient street lights.

- (a) *Definitions.* In this Section, the following words have the meanings indicated:

Director means the Director of the Department of Transportation.

Light-emitting diode or *LED light* means a semiconductor device that produces visible light when an electrical current is passed through it.

- (b) When any contract to maintain street lights owned by the County in effect on January 21, 2014, expires, any later maintenance contract must be with a company that commits to install LED lights or another energy-efficient technology that the Director finds is equivalent or superior to LED lights.

Sec. 49-19B] Permit exemption for the Purple Line.

- (a) The State of Maryland, including its agencies and divisions, is exempt from any permitting requirement in Chapters 8 (“Buildings”), 17 (“Electricity”), 22 (“Fire Safety Code”), and 49 (“Streets and Roads”) for the construction of:

- (1) any portion of the Purple Line that is located within the public right-of-way under a valid franchise agreement approved by the County Council under Section 49-21; and

(2) any structure related to the Purple Line owned by the State of Maryland or its agencies or divisions, including any hiker/biker trail that will be owned or maintained by the County.

(b) However, the State of Maryland, and its agencies, divisions, and contractors, must obtain any permit required under Chapter 8, 17, 22, and 49 for the construction or alteration of any structure owned by the County, except the hiker/biker trail, or by a private person or entity.

ARTICLE 2. FRANCHISES.

Sec. 49-20. Franchises for use of street; procedure for granting; notice and hearing.

The Council [must not grant any] may approve a franchise [in relation to] for the occupation of any [highway, avenue, street, lane, alley,] road or other right-of-way, either on, above, or below the surface[, until all requirements of this Article have been met] if the following requirements are met:

(a) *Application to be published.* The applicant must publish notice of each application for [any] a franchise once a week for 3 successive weeks in one or more newspapers of general circulation in the County, specifying:

(1) [the essential] a summary of terms of the proposed franchise;

(2) the compensation the County [will] may receive, [which may take the form of] including in-kind goods and services [as well as cash payments]; and

(3) the location, character, and extent of the use of the right-of-way.

(b) *Inquiry as to value.* [After the notice required by subsection (a) is published, the] The County Executive or a designee [must] may

investigate the value of the proposed franchise and the adequacy of the compensation proposed to be paid for it.

(c) *Hearing on objections.* If any taxpayer, or any property owner whose property [right] rights may be affected by the grant of the franchise, files an objection to the granting of the franchise in writing with the County Executive within 10 days after the last notice required by subsection (a) appears, the County Executive or a designee must hold a hearing within 15 days after the objection is filed on the proposed franchise and any objections to it.

(d) *Recommendations of County Executive.* The County Executive must, [in each case,] after any hearings required by this Article, forward to the Council written recommendations concerning the proposed franchise, including the Executive's findings as to the value of the proposed franchise, any response to objections which have been raised, and any other relevant issues.

* * *

Sec. 49-21. Council action.

(a) [If the Council finds that granting the franchise is expedient and proper, the] The Council may grant [such] a franchise for such compensation as it, after considering the recommendations of the County Executive, finds proper, for a period not longer than 25 years. If the franchise allows the location of a permanent structure with a useful life [substantially] longer than 25 years in the County right-of-way, the initial term of the franchise may exceed 25 years.

(b) [At the option of the Council, the approved] The franchise may allow the [grantee] franchisee to renew the franchise, after [a fair revaluation,] the County determines the value of the renewed franchise [including the value, if any, derived from the franchise or renewals,] for one or more terms that each do not cumulatively exceed [another] 25 years.

(c) Every grant of any franchise must provide, by forfeiture of the grant, for compelling compliance with its terms [and to secure efficiency of public service at reasonable rates] and the maintenance of the [property] right-of-way in good condition, throughout the grant. [Each grant must also specify:

(1) the mode of determining any valuation and revaluation under this Article,

(2) the time limit to exercise the rights given, and

(3) the procedure for default for a lapse of the franchise.]

* * *

Sec. 49-22. County [Council] to retain [municipal] control.

When the Council grants a franchise under this Article, the [Council] County must [not part with, but must expressly reserve, the right and duty at all times] continue to exercise full [municipal] control [and regulation in respect to all matters connected with the franchise not inconsistent with its terms] over the franchised right-of-way.

Sec. 49-23. Certain private rights not affected.

Nothing in this Article is intended to affect any private right, [including the right of any adjacent property owner held by law in 1910,] except as necessary to comply with this Chapter.

ARTICLE 3. ROAD DESIGN AND CONSTRUCTION CODE.

Sec. 49-25. Complete streets policy and standards.

This Article is intended to guide the planning, design, and construction of transportation facilities in the public right-of-way. Each transportation facility in the County must be planned and designed to:

- (a) maximize the choice, safety, convenience, and mobility of all users, regardless of age, ability, or mode of transportation,
- (b) maintain or expand connectivity for users,
- (c) respect and maintain the [particular character of] master plan recommendations for the community where it is located,
- (d) ensure access, convenience, safety, and investment of resources are equitably applied,
- ~~[(d)]~~(e) minimize stormwater runoff and otherwise preserve the natural environment, and
- ~~[(e)]~~(f) facilitate, to the maximum extent possible, the future accommodation of improved transportation technology elements, such as intelligent signals, smart parking meters, electric vehicle charging, car- and bicycle-sharing, and way-finding systems.

To achieve these goals, each County road and street must be designed so that the safety and convenience of all intended users of the roadway system [– including

pedestrians, bicyclists, transit users, automobile drivers, commercial vehicles and freight haulers, and emergency service vehicles –] is accommodated. [Each road and street must facilitate multi-modal use and assure that all users can travel safely in the public right of way. A specified quantity of stormwater must be managed and treated on-site, in the road or street right-of-way, including through the use of vegetation-based infiltration techniques.] Complete streets function as a road transportation network that is safe and convenient for all intended users, regardless of mode. Stormwater management requirements, including vegetated and structural practices, may be met on-site and within the public right-of-way. [These context-sensitive] Complete streets policies must be employed in all phases of publicly or privately funded facility development, including planning, design, construction, reconstruction, and streetscaping. [Each transportation project must incorporate complete streets infrastructure sufficient to promote safe and convenient travel along and across the right-of-way for all users.]

The County Executive must adopt under Method (3) a Complete Streets Design regulation that provides guidance on the planning, design, and operation of roadways for all intended users.

This Article may be cited as the “Montgomery County Road Design and Construction Code.”

Sec. 49-26. Definitions.

In this Chapter, except where specified otherwise, the following words and phrases have the meanings indicated:

Bikeway[:] means any area expressly intended for bicycle travel, including associated curbs and gutters and any of the following:

- 460 [(a) *Shared use path*: A paved path that abuts, is contiguous with, and is a
 461 part of the right-of-way for a County road or street, that is typically 10
 462 feet wide but can vary between 8 feet and 14 feet wide, designated for
 463 bicycles and pedestrians, that is separated from motorized traffic by a
 464 curb, barrier, or landscape panel.
- 465 (b) *Shared use trail*: A paved or unpaved trail designated for bicycles and
 466 pedestrians, that is not part of the right-of-way for a County road or street
 467 because the trail does not abut and lie contiguous with the right of way
 468 for a County road or street.
- 469 (c) *Bike lane*: A portion of a roadway designated by striping, signing, or
 470 pavement markings for the preferential or exclusive use of bicycles, and
 471 on which through-travel by motor vehicles is not allowed.]
- 472 (a) *Bike lane means a portion of a roadway designated by striping, signing,*
 473 *or pavement markings for the preferential or exclusive use of bicycles,*
 474 *and on which travel by motor vehicles is not allowed.*
- 475 (b) *Off-street trail means paths located outside of the road right-of-way that*
 476 *provide two-way travel for people walking, bicycling and using other*
 477 *non-motorized modes. This facility was formerly referred to as a “shared*
 478 *use trail.”*
- 479 (c) *Separated bike lane, also known as a protected bike lane or cycle track*
 480 *means an exclusive bikeway that is physically separated from motor*
 481 *vehicles and distinct from the sidewalk. A separated bike lane may be in*
 482 *a one-way or two-way configuration.*

(d) *Shared use roadway*[:] means [A] 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.

[(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.

(f) *Buffered bike lane*: a bikeway separated from a motor vehicle travel lane with an area of striped pavement.]

(e) *Sidepath* means a paved path that is located parallel to and within the road right-of-way. Sidepaths provide two-way travel routes designated for walking, bicycling, jogging and skating. Sidepaths are separated from motorized traffic by a curb, barrier, or landscape panel. This facility was formerly referred to as a “shared use path”.

Complete streets[:] means streets that are planned, designed, and constructed to enable safe access for all intended users, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities, commercial vehicles, freight haulers, and emergency service vehicles.

Complete streets infrastructure[:] means any design feature that contributes to a safe, convenient, and comfortable travel experience, which may include such features as sidewalks; [shared use paths] sidepaths, bike lanes, and separated bike lanes; bike stations and bike storage facilities; narrow motor vehicle lanes and tight curb radii; street trees, planting strips, and other right-of-way landscaping; curbs and accessible curb ramps; curb extensions, crosswalks, and refuge islands; raised medians;

pedestrian and traffic signals, including countdown and accessible signals; signage; streetlighting; street furniture; bicycle parking facilities; stormwater management; public transportation stops and shelters; dedicated transit lanes; and traffic calming devices.

Construction and *constructed* include “reconstruction” and “reconstructed” but not “maintenance,” and include grading, installation of drainage structures, paving, curbs and gutters, curb returns, sidewalks and other areas intended for pedestrian access, bikeways, driveway entrances, guardrails, retaining walls, sodding, and planting.

Curb extension[:] means an area that extends the line of a curb into a parking lane, reducing the width of a street.

Curbside Width[:] means the area beyond each curb necessary for sidewalks, [shared use paths] sidepaths, street trees and other landscaping, streetlights, utilities, and other elements.

Dedication plat[:] means [Any] any plat conforming to law, duly recorded in the County land records, which has the legal effect of dedicating one or more rights-of-way to public use. If the plat was recorded after the Maryland-National Capital Park and Planning Commission was created, and the property is located in the Commission’s jurisdiction, the Commission must have approved the plat.

Design standard[:] means the standard adopted by regulation under this Article for each type of road, as defined in Section 49-31, except Freeways and Controlled Major Highways, which shows typical cross-sections and other dimensions to which the road must conform.

Director[:] means [The] the Director of Transportation or the Director of Permitting Services, as specified, and each Director’s designee.

533 *Drainage structure[:]* means [Any] any culvert, bridge, storm drain, storm
 534 sewer, catch basin, canal, channel, inlet, ditch, or subsurface drain, and any other
 535 structure or watercourse designed to convey surface or other waters.

536 *Dual road[:]* means [Any] any road in which the travel directions are separated
 537 by a median.

538 *Forest conservation plan[:]* means [A] a plan for the retention, afforestation, or
 539 reforestation of forest and trees approved under Chapter 22A.

540 *Ground cover[:]* means [Low] low-maintenance, non-invasive, leafy, grassy, or
 541 woody vegetation that covers and holds soil.

542 *Maximum target speed[:]* means the maximum speed at which vehicles should
 543 operate on a thoroughfare in a specific context, consistent with the level or multimodal
 544 activity generated by adjacent land uses, to provide mobility for motor vehicles and a
 545 safe environment for pedestrians and bicyclists.

546 [*Pedestrian walkway:* Any sidewalk, and any other land, way, or path
 547 designated by appropriate signs for a pedestrian route.]

548 *Private road[:]* means [Any] any road [street, highway, avenue, lane, alley, or
 549 viaduct,] or any segment of [any of them] a road, including any [pedestrian walkway]
 550 sidewalk, sidepath, or other area intended for pedestrian access adjacent to the private
 551 road that has not been deeded, dedicated or otherwise permanently appropriated to the
 552 public for public use or County maintenance.

553 *Reconstruct and reconstruction* include any change in the width, alignment, or
 554 design of a road or other structural features within or along a roadway [– that is, the
 555 width of the pavement or the area between curbs –] but [do] does not include
 556 resurfacing a road, bikeway, or sidewalk without any change in its width.

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

Rural area means an area designated as the Rural East and Rural West policy areas in the Growth and Infrastructure Policy.

Sidewalk[:] means any portion of the right-of-way for a County road [or street] that is expressly intended [as a pedestrian walkway] for pedestrians, including pedestrian ramps.

Specimen tree[:] means [Any] any tree with a diameter measured at 4.5 feet above the ground of 30 inches or more, or any tree with 75% or more of the diameter of the current champion tree of that species, as designated by the County Forest Conservation District Board.

Speed hump means a parabolic or flat-top device used to create vertical deflection along a roadway for traffic calming purposes. These may include wheel gaps that allow target vehicles to pass through unaffected or flat-top devices may include crosswalks.

Street tree[:] means [A] a tree that is listed in the design standards as acceptable for planting in a public right-of-way. In a private road right-of-way or easement, a tree listed as acceptable for planting in the Planning Board technical manual for forest conservation.

Subdivision[:] means [The] the division or [partition] assemblage of a lot, tract or parcel of land into [2] one or more lots, plots, sites, tracts, parcels, or other divisions for immediate or future rental, sale, or building development. *Subdivision* includes a resubdivision, but not a division or partition of land for agricultural purposes.

Transitway[:] means a right-of-way for use exclusively by public transit vehicles.

Urban area means areas depicted by Appendix E in the Master Plan of Highways and Transitways as amended, or by any replacement functional, master, or sector plan that defines urban areas or urban road code boundaries.

Sec. 49-27. Applicability of Article.

This Article applies to all roads in the County, except any:

- (a) [State] state road;
- (b) [Federal] federal road;[.]
- (c) [Road] road located in any part under the jurisdiction of the Maryland-National Capital Park and Planning Commission;
- (d) [Private] private road; or
- (e) [Municipally] municipally owned and maintained road.

Nothing in this Article prevents the County from building, and assessing the cost of, any drainage structure, curb or gutter, sidewalk, [shared use path] sidepath, curb return, or sidewalk and driveway entrance, along a [State] state or [Federal] federal road.

Sec. 49-28. Standards and specifications.

- (a) Except as otherwise provided in this Article, the construction of all roads must conform to the standards[, criteria] and specifications in this Article or any regulation adopted under this Article. As used in this Article, “standards” means County design standards including the regulation adopting the Complete streets design, and “specifications” means the

most recent [State] state standard specifications for road construction and materials. When no County standards or specifications are applicable, the County will apply the current guidance published by the American Association of State and Highway Transportation Officials (AASHTO) or National Association of City Transportation Officials (NACTO).

(b) The [Director of Transportation] Executive may set a fee by [method 2] Method (3) regulation for the review of any plan or document submitted under Chapter 50 or this Chapter. Each fee must be based on the costs of reviewing any plan or document and any staff participation in the subdivision process. The Department must provide a copy of each fee regulation to the Planning Board.

(c) The Department of Transportation must make available to the public, free or at a reasonable cost, an up-to-date copy of all applicable County road design standards and specifications.

Sec. 49-29. Pedestrian [walkways] sidewalks, bikeways, and wheelchair traffic.

(a) Bikeways and [walkways] sidewalks must be constructed when any County road is constructed, reconstructed, or relocated, except [any walkway]:

- (1) any sidewalk or sidepath in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone;
- (2) any sidewalk or sidepath on any roadway that is classified as [exceptional rustic, rustic, country arterial, or country road] rustic or exceptional rustic;

- (3) any sidewalk or sidepath on a [tertiary residential] neighborhood street or neighborhood yield street serving fewer than 75 dwelling units if the Planning Board and Department of Transportation [finds] find that a sidewalk is not expected to be [unnecessary] necessary for pedestrian movement[, or];
- (4) any sidewalk if the site is located in an environmentally sensitive area with limits on the amount of impervious surface allowed[.] ;
- or
- (5) where the Department of Permitting Services finds that a bikeway or sidewalk is infeasible because it will not connect to any destination within the foreseeable future, or the facility qualifies for fee payments in lieu of construction under Section 49-40.

Each bikeway and [walkway] sidewalk must conform to approved capital improvements programs and be consistent with applicable area master plans and transportation plans adopted by the Planning Board.

- (b) To promote the safety of bicycle and wheelchair travel throughout the County, the County Executive must adopt, by Method (3) regulation, standards and specifications to build and maintain ramps at curbed intersections and [storm water] stormwater gratings and other openings along roads and streets, in each case of a design and type that is not a hazard to bicycle and wheelchair traffic and is consistent with Americans with Disabilities Act best practices guidelines published by the United States Department of Justice. These ramps, gratings, and openings must be built and maintained as part of each project under subsection (a).

Sec. 49-30. Traffic [Calming] calming.

(a) The Director of Transportation must consider installing traffic calming and bicycle- and pedestrian-friendly design features [in] on any [residential] area connector, neighborhood connector, neighborhood street, or neighborhood yield street over 1,000 feet long, [minor arterial, business district street] downtown street, town center street, and industrial street. Traffic calming features include raised crosswalks and raised intersections, traffic [circle] circles, medians, pedestrian refuge islands, chokers, smaller centerline radii, parking cut-outs, chicanes, other forms of horizontal or vertical deflection, and special paving and streetscaping in central business districts or other commercial areas.

(b) [Speed humps that are 12 feet wide may be built on any principal secondary residential street, secondary residential street, tertiary residential street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on any primary residential street, but must be spaced at last 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on a minor arterial, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection. Before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.] Speed hump location and placement:

(1) speed humps that are 12 feet wide may be built on any neighborhood street, neighborhood yield street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection;

(2) speed humps that are 22 feet wide may be built on any downtown street, town center street, or shared street, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection;

(3) speed humps that are 22 feet wide may be built on a downtown boulevard, town center boulevard, area connector, neighborhood connector, or industrial street, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection; and

(4) before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.

Sec. 49-31. Classification of roads.

[Each road, except those listed in subsections (m)-(n), must be classified as designated in the applicable master or sector plan. This Section defines the vehicular functions of each road classification.

(a) A Freeway is a road meant exclusively for through movement of vehicles at a high speed. Access must be limited to grade-separated interchanges.

(b) A Controlled Major Highway is a road meant exclusively for through movement of vehicles at a lower speed than a Freeway. Access must be limited to grade-separated interchanges or at-grade intersections with public roads.

(c) A Major Highway is a road meant nearly exclusively for through movement of vehicles at a moderate speed. Access must be primarily from grade-separated interchanges and at-grade intersections with public

roads, although driveway access is acceptable in urban and denser suburban settings.

(d) A Parkway is a road meant exclusively for through movement of vehicles at a moderate speed. Access must be limited to grade-separated interchanges and at-grade intersections. Any truck with more than 4 wheels must not use a Parkway, except in an emergency or if the trust is engaged in Parkway maintenance.

(e) An Arterial is a road meant primarily for through movement of vehicles at a moderate speed, although some access to abutting property is expected.

(f) A Country Arterial is an Arterial, typically in the County's agricultural reserve.

(g) A Minor Arterial is a 2-lane Arterial meant nearly equally for through movement of vehicles and access to abutting property.

(h) A Business District Street is a road meant for circulation in commercial and mixed-use zones.

(i) An Industrial Street is a road meant for circulation in industrial zones.

(j) A Primary Residential Street is a road meant primarily for circulation in residential zones, although some through traffic is expected.

(k) A Country Road is a road that has the function of a Primary Residential Street, typically in the County's agricultural reserve.

(l) A Principal Secondary Residential Street is a Secondary Residential Street meant to carry somewhat more through traffic.

(m) A Secondary Residential Street is a road meant to provide access between a residential development with fewer than 200 dwelling units and one or more higher classification roads as defined in subsections (b) through (l).

(n) A Tertiary Residential Street is a road meant to provide direct access to a residential development with 75 or fewer dwelling units. A Tertiary Residential Street must not be built unless the Planning Board allows its use when the Board approves a preliminary subdivision plan or site plan.

(o) A Rustic Road or an Exceptional Rustic Road means a road classified as either under Article 8.

(p) An Alley is a right-of-way intended to provide secondary service access to the rear or side of lots or buildings and not intended for transporting through traffic. An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a project, preliminary subdivision, or site plan would provide adequate primary vehicular access.]

(a) In this Article and the regulations adopted under it:

(1) A downtown area consists of areas with the highest intensity of development. These areas are:

(A) Bethesda CBD;

(B) Friendship Heights CBD;

(C) Silver Spring CBD;

(D) Wheaton CBD;

(E) White Flint Sector Plan area; and

(F) White Flint 2 Sector Plan area.

(2) A town center area consists of areas with moderate to high development intensity. These areas are:

(A) Burtonsville Town Center;

(B) Clarksburg Town Center;

(C) Damascus Town Center;

(D) Germantown Town Center;

(E) Kensington Town Center;

(F) Olney Town Center; and

(G) All other designated Urban areas that are not downtown areas.

(3) A country area is located within the designated Rural area.

(4) A suburban area is an area with predominantly residential zoning that is not already a downtown, town center, or country area.

(5) These areas may be created, eliminated or modified by functional plans, master plans, or sector plans.

(6) Roads are included in the area within which they are located. Roads bordering on two areas will be assigned to the area with the greater development intensity.

(b) Each road must be assigned a County classification and a federal classification. Federal classifications are assigned in accordance with the most recent edition of the Federal Highway Administration Highway Functional Classification typologies.

(c) County classifications are:

(1) A Freeway is a road meant exclusively for through movement of vehicles at a high speed. Access must be limited to grade-separated interchanges.

- (2) A *Controlled Major Highway* is a road meant exclusively for through movement of vehicles at a lower speed than a Freeway. Access must be limited to grade-separated interchanges or at-grade intersections with public roads.
- (3) A *Parkway* is a road meant exclusively for through movement of vehicles at a moderate speed. Access must be limited to grade-separated interchanges and at-grade intersections. Any truck with more than four wheels must not use a Parkway, except in an emergency or if the truck is engaged in Parkway maintenance.
- (4) A *Downtown Boulevard* is a road in a downtown area that serves a high volume of vehicles, pedestrians, bicyclists, or transit users. Access to abutting properties is allowed but not preferable. These roads were previously classified as major highways and arterials.
- (5) A *Downtown Street* is a road in a downtown area that serves a large share of pedestrians, bicyclists, or transit users. This road type is meant for circulation in commercial and mixed-use zones. Access to abutting properties is expected. These roads were previously classified as business streets.
- (6) A *Boulevard* is a road that typically connects employment and entertainment centers, civic, commercial, and institutional land uses, and may also provide cross-country and regional connections. Pedestrian, bicycle, and transit users are to be accommodated. Some access to abutting properties is expected. These roads were previously classified as major highways and arterials.
- (7) A *Town Center Boulevard* is a road in a town center area that serves a moderate to high volume of vehicles, pedestrians,

bicyclists, or transit users. Access to abutting properties is allowed but generally not preferable. These roads were previously classified as major highways and arterials.

(8) A Town Center Street is a road in a town center area that serves a larger share of pedestrians, bicyclists, or transit users. This road type is meant for circulation in commercial and mixed-use zones. Access to abutting properties is expected. These roads were previously classified as business streets.

(9) An Area Connector is a two-lane street in a suburban area that typically connects employment and entertainment centers, civic, commercial, and institutional land uses, and may also provide limited regional connectivity and serve primary circulation in residential zones. These roads were previously classified as minor arterials.

(10) A Neighborhood Connector is a street in a suburban area providing primary circulation in residential zones and may also enable traffic to pass through a neighborhood. These streets were previously classified as primary residential streets.

(11) A Neighborhood Street is a street that provides internal circulation within suburban areas. Access to abutting properties is expected. These streets were previously classified as secondary and tertiary residential streets.

(12) A Neighborhood Yield Street is a Neighborhood Street that is designed as a bi-directional one-lane street.

(13) An Industrial Street is a road meant for circulation in areas consisting predominantly of industrial zones.

(14) A Country Connector is a road in a country area that was previously classified as major highways, arterials, or country arterials.

(15) A Country Road is a low intensity road in a country area.

(16) An Alley is a right-of-way intended to provide secondary access to the rear or side of lots or buildings and not intended for transporting through traffic. An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a project, preliminary subdivision, or site plan would provide adequate primary vehicular access. An Alley is a Residential Alley if serving only residential zones, or a Commercial Alley if serving any non-residential zones.

(17) A Rustic Road or an Exceptional Rustic Road means a road classified as such under Article 8.

(18) A Residential Shared Street or Commercial Shared Street is a street designed to create a shared traffic environment where pedestrians, bicyclists, and other non-motorized traffic may comfortably occupy the same space as motor vehicle traffic. These streets prioritize pedestrian and bicycle movement by slowing vehicular speeds and communicating clearly through design features that motorists must yield to all other users. A Shared Street is a Residential Shared Street if serving only residential zones, or a Commercial Shared Street is serving any non-residential zones.

(d) County classifications are assigned as follows until the roads are re-designated by functional plans, master plans, or sector plans. The number

of lanes is defined as the number of through lanes for motor vehicles and is tallied based on the number of planned lanes for that road, or the number of existing lanes if not specified by any functional plan, master plan, or sector plan.

(1) Freeways retain their classifications as Freeways.

(2) Controlled Major Highways retain their classifications as Controlled Major Highways.

(3) Parkways retain their classifications as Parkways.

(4) Major highways:

(A) Major highways located in a downtown area are classified as Downtown Boulevards.

(B) Major Highways located in a town center area are classified as Town Center Boulevards.

(C) Two-lane Major Highways located in a country area are classified as Country Connectors.

(D) Two-lane Major Highways located in a suburban area are classified as Area Connectors.

(E) All Major Highways not addressed by (A) through (D) are classified as Boulevards.

(5) Arterials:

(A) Arterials with four or more lanes located in a downtown area are classified as Downtown Boulevards.

(B) Arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.

(C) Arterials with more than two lanes located in a town center area are classified as Town Center Boulevards.

(D) Arterials with two lanes located in a town center area are classified as Town Center Streets.

(E) Arterials located within a country area are classified as Country Connectors.

(F) Two-lane Arterials located in a suburban area are classified as Area Connectors.

(G) All Arterials not addressed by (A) through (F) are classified as Boulevards.

(6) Minor Arterials:

(A) Minor Arterials with four or more lanes located in a downtown area are classified as Downtown Boulevards.

(B) Minor Arterials with fewer than four lanes located in a downtown area are classified as Downtown Streets.

(C) Minor Arterials with more than two lanes located in a town center area are classified as Town Center Boulevards.

(D) Minor Arterials with two lanes located in a town center area are classified as Town Center Streets.

(E) Minor Arterials located within a country area are classified as Country Connectors.

(F) All Minor Arterials not addressed by (A) through (E) are classified as Area Connectors.

(7) Business District Streets:

(A) Business District Streets with four or more lanes located in a downtown area are classified as Downtown Boulevards.

(B) Business District Streets with fewer than four lanes located in a downtown area are classified as Downtown Streets.

(C) Business District Streets with more than two lanes that are not located in a downtown area are classified as Town Center Boulevards.

(D) Business District Streets with two lanes that are not located in a downtown area are classified as Town Center Streets.

(8) Industrial Streets retain their classification as Industrial Streets.

(9) Primary Residential Streets:

(A) Primary Residential Streets located in a country area are classified as Country Connectors.

(B) Primary Residential Streets not located in a country area are classified as Neighborhood Connectors.

(10) Secondary Residential Streets are classified as Neighborhood Streets.

(11) Tertiary Residential Streets are classified as Neighborhood Streets.

(12) Country Arterials are classified as Country Connectors.

(13) Country Roads retain their classifications as Country Roads.

(14) Shared Streets with entirely residential zoning along its frontage are classified as a Residential Shared Street.

(15) Shared Streets with any non-residential zoning along its frontage are classified as a Commercial Shared Street.

(16) Alleys retain their classifications as Alleys.

(17) Rustic Roads retain their classifications as Rustic Roads.

(18) Exceptional Rustic Roads retain their classifications as Exceptional Rustic Roads.

(19) Transitions along continuous roadways:

(A) If a Downtown road type changes classification to or from a non-Downtown road type: the Downtown classification

will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the downtown area.

(B) If a Town Center road type changes classification to or from a non-Downtown and non-Town Center road type: the Town Center classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the limits of the town center area.

(C) If a Downtown Boulevard, Town Center Boulevard, or Boulevard change classification to or from any other type: the Downtown Boulevard, Town Center Boulevard, or Boulevard classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the initial transition point.

(D) The transition areas noted in (A) through (C) are not additive; if the roadway meets multiple transition criteria the transition area will remain to the next master planned cross-street, not to exceed 500 feet from the nearest of either the limits of the downtown or town center area, or the initial transition point.

(20) If the Department of Transportation determines that the criteria under (d)(1) through (d)(19) are not suitable for a particular road, the Department may determine that a more context-sensitive classification or transition length applies in lieu of the default classifications.

Sec. 49-32. Design standards for types of roads.

* * *

958 [(c) In this Article and the standards adopted under it:

- 959 (1) an ‘urban’ road is a road segment in or abutting a Metro Station
 960 Policy Area, Town Center Policy Area, or other urban area
 961 expressly identified in a Council resolution;
- 962 (2) a ‘rural’ road is a road segment located in a rural policy area as
 963 defined in the County Growth Policy; and
- 964 (3) a ‘suburban’ road is a road segment located elsewhere in the
 965 County.]

966 [(d)](c) The minimum right-of-way for a road may be specified in the most
 967 recent applicable functional plan, master plan, or sector plan for the area
 968 where the road is located. Minimum rights-of-way include continuous
 969 features along a typical section, and account for parking, drainage and
 970 stormwater management, spot conditions such as auxiliary lanes or transit
 971 stations, or infrastructure at intersections such as signal equipment and
 972 protected intersections. If a minimum right-of-way for a particular road
 973 is not specified [n] in a functional plan, master plan, or sector plan, the
 974 minimum right-of-way must be:

- 975 [(1) 80 feet for a Business District Street or Industrial Street;
- 976 (2) 100 feet for a Primary Residential Street with a median;
- 977 (3) 70 feet for a Primary Residential Street without a median;
- 978 (4) 60 feet for a Principal Secondary Residential Street or Secondary
 979 Residential Street;
- 980 (5) 50 feet for a standard Tertiary Residential Street;
- 981 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
 982 with two-way traffic;

- 983 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
 984 with one-way traffic; and
 985 (8) 20 feet for an Alley.]
 986 (1) 80 feet for a Downtown Street;
 987 (2) 80 feet for a Town Center Street;
 988 (3) 70 feet for an Area Connector;
 989 (4) 70 feet for a Neighborhood Connector;
 990 (5) 60 feet for a Neighborhood Street;
 991 (6) 50 feet for a Neighborhood Yield Street;
 992 (7) 80 feet for an Industrial Street;
 993 (8) 74 feet for a Country Connector;
 994 (9) 70 feet for a Country Road;
 995 (10) 20 feet for an Alley serving any non-residential zoning;
 996 (11) 16 feet for an Alley serving only residential zoning;
 997 (12) 40 feet for a Commercial Shared Street;
 998 (13) 40 feet for a Residential Shared Street.

999 [(e)](d) Grass shoulders must be load bearing at any specific location designated
 1000 by the Director of Permitting Services after consulting the Fire Chief and
 1001 Director of Transportation.

1002 [(f)](e) Unless otherwise specified in this Article, each grading, drainage
 1003 structure, paving, shoulder, landscaping, and traffic control must be
 1004 installed as provided in the latest applicable County design standards,
 1005 storm drain criteria, and specification. Unless extenuating circumstances
 1006 would result in a safety hazard, when a road is resurfaced the road must
 1007 also be restriped to meet any applicable lane width standard and may
 1008 include bike lanes where appropriate.

1009 [(g) Each through travel or turning lane on an urban road must be no wider
 1010 than 10 feet, except that a single travel lane adjacent to a parking lane
 1011 must be no wider than 11 feet and a through travel or turning lane abutting
 1012 an outside curb must be no wider than 11 feet, including the gutter pan.
 1013 Each parking lane on an urban road must be no wider than 8 feet,
 1014 including the gutter pan. The standards in this subsection do not apply if,
 1015 for a road improvement required as a result of approving a subdivision or
 1016 site plan, the Executive or the Executive's designee concludes that
 1017 applying a specific standard at a specific site would significantly impair
 1018 public safety.]

1019 [(h)](f) The curb radius at the corner of each intersection of two [urban] roads
 1020 in Downtown or Town Center areas must not exceed 15 feet. The curb
 1021 radius at the corner of intersections where all intersecting streets are Area
 1022 Connectors, Neighborhood Connectors, Neighborhood Streets, or
 1023 Neighborhood Yield Streets must not exceed 10 feet. Exceptions to these
 1024 requirements may be allowed as follows [except where]:

1025 [(1) there is only one receiving lane;]

1026 [(2)](1) there is a curb extension [is located]; [or]

1027 (2) a default 25-foot radius is required where at least one street is an
 1028 Industrial Street;

1029 (3) a larger radius is needed to serve the design vehicle and control
 1030 vehicle with consideration of the allowable encroachment defined
 1031 by the Complete Streets Design regulation; or

1032 [(3)](4) [for] a road improvement required [as a result of approving] by
 1033 a subdivision or site plan [, the Executive or the Executive's

1034 designee concludes that applying this standard at a specific site]
 1035 would significantly impair public safety.

1036 ~~[(i)]~~(g) Each pedestrian refuge must be at least 6 feet wide. A pedestrian refuge
 1037 must be located at each intersection approach along [on] a divided
 1038 highway with 6 or more through travel lanes.

1039 ~~[(j)]~~(h) Unless otherwise specified in a functional plan, master plan, sector plan,
 1040 or the approved capital improvements program, the maximum target
 1041 speed for a road [in an urban area is 25 mph.] must be:

1042 (1) 25 mph for a Downtown Boulevard;

1043 (2) 20 mph for a Downtown Street;

1044 (3) 35 mph for a Boulevard, except 25 MPH if in an Urban Area;

1045 (4) 30 mph for a Town Center Boulevard, except 25 MPH if in an
 1046 Urban Area;

1047 (5) 25 mph for a Town Center Street;

1048 (6) 25 mph for an Area Connector;

1049 (7) 25 mph for a Neighborhood Connector;

1050 (8) 20 mph for a Neighborhood Street;

1051 (9) 20 mph for a Neighborhood Yield Street;

1052 (10) 25 mph for an Industrial Street;

1053 (11) 40 mph for a Country Connector;

1054 (12) between 20 to 35 mph for a Country Road;

1055 (13) between 45 to 55 mph for a Major Highway;

(14) case-by-case determinations for Alleys, Shared Streets, Rustic Roads, and Exceptional Rustic Roads;

Sec. 49-33. Road construction and reconstruction requirements.

* * *

[(c) Cul-de-sacs or turnarounds are required if the paving of a road ends other than at a paved road intersection. Each turnaround or cul-de-sac must be graded, paved, and include appropriate drainage structures and temporary curbs, if the Department of Permitting Services so requires.]

[(d)](c) If a preliminary drainage study indicates that a minimum right-of-way or storm drain easement width required in this Article is inadequate to properly drain a particular road, the Department of Permitting Services may require any additional right-of-way or storm drain easement necessary for proper drainage. The Department must notify the permittee of any added right-of-way before a dedication plat is approved by the Planning Board (or equivalent body in any municipality with land use authority) and recorded in the County land records, and must notify the permittee of any added easement when it approves a right-of-way permit.

(1) If a lot or lots front on a public road, the permittee must provide sufficient drainage easements to allow for the safe conveyance of stormwater from the public right-of-way to either an approved outfall or an approved public structure.

[(e)](d) (1) If a lot or lots front on a public road, the permittee must [install] construct sidewalks, master-planned bikeways, ramps, curbs, and gutters, except [any sidewalk]:

- 1080 (A) any sidewalk or sidepath in front of a lot that is larger than
 1081 25,000 square feet for a single-family detached dwelling in
 1082 a rural [zone] area;
- 1083 (B) any sidewalk or sidepath on any roadway that is classified
 1084 as [exceptional rustic, rustic, country arterial, or country
 1085 road] rustic or exceptional rustic;
- 1086 (C) any sidewalk or sidepath on a [tertiary residential]
 1087 neighborhood street or neighborhood yield street serving
 1088 fewer than 75 dwelling units], or in an environmentally
 1089 sensitive area with limits on the amount of impervious
 1090 surface allowed,] if [in either case] the Planning Board and
 1091 Department of Transportation [finds] find that a sidewalk is
 1092 not expected to be [unnecessary] necessary for pedestrian
 1093 movement; [or]
- 1094 (D) any sidewalk if the site is located in an environmentally
 1095 sensitive area with limits on the amount of impervious
 1096 surface allowed if the Department of Transportation find
 1097 that a sidewalk is not expected to be necessary for pedestrian
 1098 movement; or
- 1099 [(D)](E) any sidewalk or sidepath on a [secondary or tertiary
 1100 residential] neighborhood street, neighborhood yield street,
 1101 or service drive where the Department of Permitting
 1102 Services finds that a sidewalk or sidepath is infeasible, will
 1103 not connect [potentially] to other sidewalk segments within
 1104 the foreseeable future, or qualifies for fee payments in lieu
 1105 of construction under Section 49-40.

(2) However, the Planning Board may require the applicant to install sidewalks, bikeways, ramps, curbs, and gutters if the Board finds, as a condition of approval of a preliminary subdivision plan or site plan, that sidewalks, [bikeway connections] bikeways, ramps, curbs, and gutters at that location are necessary to allow access:

(A) to [a] an existing or planned sidewalk or bikeway;

(B) to a bus or other public transit stop;

(C) to an amenity or public facility that will be used by occupants of the site or subdivision; or

(D) by persons with disabilities.

Before the Planning Board approves any requirement under this paragraph, the Board must give the Departments of Permitting Services and Transportation a reasonable opportunity to comment on the proposed requirement.

[(f)](e) The construction of half roads or any road of less than the width required by this Article is prohibited except as permitted in Section 49-40. [However, construction] Construction of such portions of roads is permitted if the dedicated portion of the road established by a dedication plat and recorded in the County land records before August 15, 1950 is wide enough to permit the grading and construction of paving [18] 20 feet wide with curbs, gutters, and sidewalks required for the type of road.

[(g)](f) A road must not be constructed unless it connects with an existing public road at one end. A road must not be constructed short of an intersection unless it connects with an existing public road or the dedication of the right-of-way ends short of an intersection. If any road construction ends at or goes through an intersection, the intersection must be completed. If a road ends at other than an intersection or a point of connection with an

existing road, [turnarounds or cul-de-sacs] a turnaround such as a cul-de-sac must be provided. Each turnaround must be graded, paved, and include appropriate drainage structures and temporary curbs if required by the Department of Permitting Services.

~~[(h)]~~(g) If drainage structures are required for any particular class of road, the Planning Board must require the applicant to install or construct drainage structures that the Board finds are necessary or appropriate, after reviewing a preliminary drainage study approved by the Department of Transportation, in accordance with applicable design standards and specifications.

~~[(i)]~~(h) Driveway entrances to individual lots must be required if the Planning Board finds that off-street parking facilities are necessary and practicable.

~~[(j)]~~(i) *Street trees.*

(1) On public road rights-of-way, street trees must be planted in accordance with design standards of the Department of Transportation. On private road rights-of-way and easements, street trees must be planted in accordance with the technical manual adopted by the Planning Board under Chapter 22A.

(2) The Department of Permitting Services, the Department of Transportation, and the staff of the Planning Board should coordinate the specific location and species of street tree plantings to promote compatibility of the plantings with road function and safety, signage, maintenance, appropriate visual buffering, utilities, other public or private improvements, and aesthetic considerations related to streetscape design.

~~[(k)]~~(j) *Ground cover.*

(1) A property owner may plant and maintain ground cover in a public right-of-way adjacent to the owner's property if the owner:

- (A) complies with [guidelines issued under paragraph (3)] County regulations;
- (B) maintains the ground cover to prevent any obstruction of the public right-of-way prohibited under Section 49-10; and
- (C) holds the County harmless for any damage to the ground cover, and any damage or injury caused by the ground cover.

However, ground cover in a public right-of-way adjacent to the owner's property must not be planted where it will reduce public safety or impede travel.

(2) In this subsection, property owner or owner includes each person with a legal interest in the property and any successor to that person's interest.

[(3) The Director of Transportation, after consulting the Directors of Environmental Protection and Permitting Services, must issue guidelines that allow and encourage a property owner to place and maintain ground cover in the public right-of-way adjacent to the owner's property. The guidelines must encourage use of ground cover that is environmentally sensitive and promotes conservation of natural resources and more sustainable landscaping, including plant species that:

- (A) require reduced or no mowing, fertilizing, or other maintenance;
- (B) are drought tolerant and require little watering at any time;
- (C) do not inhibit growth of nearby trees; and

(D) include non-turf grasses.]

(3) The County Executive must adopt Method (3) regulations that define the design and maintenance standards applicable to this Section.

(4) Except as provided in paragraph (1), this subsection does not impair the County's right to enter, maintain, occupy, or otherwise control any public right-of-way for any purpose.

~~[(l)]~~(k) *Curbs and gutters.*

* * *

Sec. 49-34. Construction by County.

(a) The County must not construct any road unless:

(1) the County has previously acquired the right-of-way for the road, or the right-of-way has been dedicated to public use by appropriate recording in the County land records; and

(2) the cost of the road will be charged against the benefitted property in according with Sections 49-51 to 49-62 and subsection ~~[(b)]~~ (c) of this Section.

* * *

(e) The County Executive may authorize the construction of [shared use paths] sidepaths or sidewalks to serve general community needs. Whenever a sidewalk or [shared use path] sidepath is built in a right-of-way where there is no pavement or other road construction, building the sidewalk or [shared use path] sidepath does not mean that the County is

responsible for maintaining any part of the right-of-way except the sidewalk or [shared use path] sidepath.

Sec. 49-35. Right-of-way permit.

- (a) (1) A [person must not construct any road, sidewalk, shared use path, curb and gutter, driveway, or drainage structure; begin any such construction (including clearing, grading, and tree cutting); or perform any tree work on any roadside tree (including removing a stump on a County right-of-way), without a permit] permit is required from the Director of Permitting Services for any work within the public right-of-way. Any permit issued for roadside tree work must comply with Section 49-36A. In this Article, “roadside tree” means any plant that has a woody stem or trunk which grows all, or in part, in the right-of-way of any County public road.
- (2) In this Section and Sections 49-36, 49-36A, and 49-37, unless otherwise specified, Director refers to the Director of Permitting Services and Department refers to the Department of Permitting Services.
- (3) [A person must apply for a permit on] Permit applicants must use forms prescribed by the Director, submit detailed plans and specifications, and include locations and record plats approved by the Department and the Planning Board.
- (4) If the proposed activity requires a sediment control permit, the Department must issue the permit before any activity occurs under a permit issued under this subsection. The State Highway Administration must approve any action under its jurisdiction before the Director may approve the permit.

- 1235 (5) As a requirement to issue a permit under this Section, the Director
 1236 may require the applicant to designate and bond a haul route for
 1237 construction materials, as described in Section 49-8.
- 1238 (b) The Director must collect a fee, set by Method 3 regulation, for each
 1239 right-of-way permit application. However, the Director must not collect
 1240 a fee for any permit to:
- 1241 (1) remove or prune a tree that endangers a person or property;
 1242 (2) remove a stump in the right-of-way; [or]
 1243 (3) plant a tree; or
 1244 [(3)](4) install a sign identifying a geographic area in the right-of-way if:
- 1245 (A) the primary applicant is an unincorporated or non-profit
 1246 civic or homeowners' organization that is either:
- 1247 (i) listed on the Planning Board's most recent list of
 1248 civic and homeowners associations; or
 1249 (ii) exempt from federal income taxes and shows that its
 1250 annual revenue during its most recent fiscal year did
 1251 not exceed an amount set by a regulation;
- 1252 (B) in a homeowners' association, maintenance responsibility
 1253 of all common areas has been transferred from the
 1254 developer; and
- 1255 (C) the proposed sign would be smaller than a maximum size
 1256 set by regulation.
- 1257 (c) Before an applicant begins any road, sidewalk, sidepath, bikeway, curb
 1258 and gutter, driveway, retaining wall, steps, or drainage project, on a road
 1259 or within the boundaries of a dedication to public use, the applicant for a
 1260 permit to undertake any such project must pay to the County an inspection

and engineering fee set by the County Executive by [method] Method (3) regulation.

(d) If any such project is solely a grading project, the applicant must pay an inspection and engineering fee to the County if Department staff does the engineering work on the project and an inspection fee if the applicant submits the engineering work.

(e) Any violation of this Section is a Class A violation.

(f) The Director must refund half the fees required by this Section to the applicant if a permit is rejected or withdrawn before construction begins. If an applicant proposes to undertake a project using materials, standards, or specifications superior to those required under this Article, the fees charged must be computed on the estimated cost of the project as if it met those requirements.

(g) A person, including any utility corporation, must not cut [a road] within the right-of-way to install, replace, or maintain or connect any underground gas, electric power, or telephone line, or any other underground infrastructure, without a permit from the Director. The Director must supervise all backfilling and repaving of utility trenches to assure that the permittee complies with all applicable specifications. The permittee must restore the right-of-way to its prior condition.

* * *

Sec. 49-36. Permit conditions and procedures.

Each permit issued under Section 49-35 must be subject to the following conditions[, which the permit must specify]:

* * *

1286 **Sec. 49-36A. Roadside tree work.**

1287 * * *

1288 (b) *Applicability; exceptions.*

1289 (1) A person [(including a government agency)] may receive a right-
1290 of-way permit to perform tree work on a roadside tree if the person:

1291 * * *

1292 **Sec. 49-37. Street and road bonds.**

1293 * * *

1294 (d) (1) If the Director finds a violation of an applicable law or regulation,
1295 or a default in the performance of any term or condition of the
1296 permit or accepted security, the Director must give written notice
1297 of the violation or default to the principal and to the surety of the
1298 accepted security. The notice must specify the work to be done,
1299 the estimated cost of the work, and the period of time the Director
1300 finds reasonably necessary to complete the work.

1301 (2) If a cash bond has been posted, the Director must give notice of
1302 default to the principal; and if compliance is not [acheived]
1303 achieved within the time specified, the Director may, without delay
1304 and without further notice or proceedings, use the cash deposited,
1305 or any portion of the deposit, to cause the required work to be
1306 performed by contract or otherwise in the Director's discretion.
1307 After any default in the performance of any term or condition of
1308 the permit or accepted security, the County, the surety, and any

person employed or engaged on their behalf may enter the site to complete the required work.

* * *

Sec. 49-38. Acceptance of roads.

* * *

(b) Any action by the County to accept a road must be in writing and fully identify the portion accepted. Any accepted road must conform to [the standards and specifications of] this Chapter and all other applicable laws in force at the time of acceptance.

* * *

Sec. 49-39. Pre-acceptance review by County.

* * *

(b) After completion and final inspection of a road, the County must either accept the road, if the Director of Permitting Services finds that its construction has met all requirements of this Article, and release the bond, or the Director must reject the road by written notice to the permittee and surety, where an acceptable security was posted, specifying the reasons for rejection by reference to the particular requirement which has been violated, and allow a specified reasonable time for the permittee or surety to comply with all applicable [requiements] requirements.

* * *

Sec. 49-40. Waivers of requirements of Article.

(a) The Director of Permitting Services may waive any requirement of this Article for sidewalks, bikeways, rights-of-way widths, grade percentages, full-width grading, and the construction of both roadways of a dual road, or any combination of them, as allowed in this Section, for any road constructed by the County or a permittee.

(b) The Director must apply the following standards for granting or denying waivers:

(1) *Sidewalks and Sidepaths.*

(A) *Waiver authority.* The Director may waive any requirement, subject to (B), to install sidewalks or sidepaths if:

- (i) the lots abutting the right-of-way are unimproved;
- (ii) the street was lawfully graded before August 15, 1950, and the terrain is so steep and uneven that grading for sidewalks or sidepaths cannot be done except at excessive cost, or
- (iii) houses or buildings abutting the right-of-way which were constructed before August 15, 1950, are so situated, and the property upon which those houses or buildings are located is so graded, that the construction of sidewalks or sidepaths is undesirable.

(B) *Waivers not allowed.* [Notwithstanding the preceding subparagraph, the] The Director [may] must deny a waiver if:

- (i) the street involved is [a Primary Residential Street] an Area Connector, Neighborhood Connector, Industrial Street, [Business District Street, Minor

Arterial or Arterial, Major Highway] Downtown
Street, Town Center Street, Downtown Boulevard,
Town Center Boulevard, Boulevard, or Controlled
 Major Highway; or

(ii) the required sidewalks or bikeways are necessary or
 desirable to provide safe access for pedestrians and/or
bicyclists.

(C) *Waiver and fee payment.* As an alternative to building a
 sidewalk or bikeway on an existing or proposed street, the
 Director may allow an applicant to pay a fee if the applicant
 shows that building a sidewalk or bikeway as required
 would cause extreme hardship. The sidewalk or bikeway
 that would be waived must not connect to another existing
 or proposed sidewalk, [shared use path] bikeway, bus stop,
 school, or other public [faciity] facility. The fee must equal
 the full cost to build the sidewalk or bikeway, including the
 design and supervision costs. This fee must be paid, any
 necessary right-of-way must be dedicated, and any
 necessary perpetual easement must be recorded before the
 Director issues any road construction permit for the
 proposed public street. The revenue from these fees must be
 assigned to a capital account for sidewalk or bikeway
 construction and may be spent as appropriated by the
 County Council.

* * *

(4) *Full-width grading.* The Director may waive or reduce any requirement for full-width grading if:

* * *

(C) for a [Secondary Residential or Tertiary Residential] Neighborhood Street or Neighborhood Yield Street, the applicant proposes to extend an existing paved road which ends short of an intersection, the right-of-way containing the existing paved road is not graded to its full width and the waiver does not apply beyond the intersection.

* * *

ARTICLE 4. ACQUISITION OF LAND.

Sec. 49-45. Authority to acquire land for transportation purposes.

The County may buy land which is needed in connection with:

(a) the opening of any new road, [shared use path] bikeway, or sidewalk,

* * *

Sec. 49-50. Optional method of condemnation of land for streets or roads.

As authorized by Section 40A of Article III of the Maryland Constitution, the County may acquire any land or interest in land required for a right-of-way for a County road or street by using the following procedure:

* * *

(b) (1) Promptly after being appointed, the broker or appraiser must estimate the fair market value of the property or interest and submit a written report to the County.

(2) The County then may be petition, naming the owner and all persons of record whose interest in the property would be taken, pay to the Circuit Court the amount estimated by the broker or appraiser to be the fair market value of the property, and record a copy of the resolution of taking in the County land records. A copy of the resolution must be attached to the petition and filed with the Circuit Court. A copy of the petition and resolution must be [served on] sent to each person named in the petition.

* * *

ARTICLE 5. COUNTY ROADS – AUTHORITY AND FUNDING.

Sec. 49-51. [Definitions] Reserved.

[As used in this Article:

Construction means construction or reconstruction (but not maintenance), and includes grading, installation of drainage structures, and paving.

Road: includes any road, street, highway, avenue, lane, alley, bridge, shared use path, sidewalk, viaduct, and any related storm drain and stormwater management facility.]

* * *

Sec. 49-53. Public hearing; notice.

* * *

- (e) The Director need not hold a hearing under subsection (d) before a sidewalk or [shared use path] sidepath is constructed if:

* * *

Sec. 49-57. Roads partly in unincorporated area and partly in city or town.

- (a) *Building roads.*

- (1) If a road, bridge, storm drain, sidewalk, [shared use path] sidepath, transitway, or other transportation facility is located partly in the unincorporated area of the [county] County and partly in a municipality or special taxing district that is authorized by law to build or maintain that part of the facility that is located in the municipality, either the County or the municipality or special taxing district may improve the entire facility according to applicable County laws or any law or regulation that applies in the municipality or special taxing district, respectively, as if the facility were completely located in the unincorporated area of the [county] County or in the municipality or special taxing district.

* * *

- (3) The County may build or improve a road, bridge, storm drain, sidewalk, [shared use path] sidepath, bikeway, transitway, or other transportation facility which it is authorized by law to construct and maintain, including when the facility is located partly or entirely in a municipality or special taxing district. Before taking any action under this paragraph, the Executive must consult each affected municipality.

* * *

ARTICLE 6. ABANDONMENT AND CLOSING OF RIGHTS-OF-WAY.

Sec. 49-62. Abandonment authority; scope of Article; procedures.

(a) *Authority.* The County Council, by adopting a resolution, may close to public use or abandon the County's right to use any right-of-way. As used in this Article, *right-of-way* means any road, [street, alley, crosswalk, pedestrian walkway, shared use path] sidewalk, bikeway, crosswalk, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists. This Article applies to all rights-of-way except as provided in subsection (j) and State road rights-of-way, and may apply to a State road right-of-way if the appropriate State agency expressly consents. Before the Council adopts a resolution under this Article, the procedures in this Article must be followed.

* * *

(h) *Agencies.* The government agencies and other parties from which the Executive must solicit a response are:

(1) the Department of Transportation;

(2) the Department of Permitting Services;

~~[(2)]~~(3) the Maryland-National Capital Park and Planning Commission;

~~[(3)]~~(4) the Washington Suburban Sanitary Commission, if any part of the right-of-way is located in the Washington Suburban Sanitary District;

1474 ~~[(4)]~~(5) each public utility authorized by the Public Service Commission
 1475 to operate in the area and which has any overhead or underground
 1476 facilities in the vicinity;

1477 ~~[(5)]~~(6) the governing body of each incorporated municipality or special
 1478 taxing district in which any of the right-of-way is located;

1479 ~~[(6)]~~(7) ~~[The]~~ the Police Department;

1480 ~~[(7)]~~(8) the County Fire and Rescue Service; and

1481 ~~[(8)]~~(9) ~~[Any]~~ any grantee of a franchise under Article 2, if the franchise
 1482 authorizes the grantee to install or use any facility in, over, or under
 1483 the affected right-of-way.

1484 (i) *Temporary closure.* This Article does not apply to any temporary closure
 1485 required by a construction traffic control plan if the closure does not last
 1486 longer than 12 months. If special circumstances require that a temporary
 1487 closure last longer than 12 months, the Director of Transportation must
 1488 apply to the Council for approval to extend the closure [for a specified
 1489 period that does not exceed 24 months]. The Council, by resolution, may
 1490 approve an extended temporary closure under this subsection without
 1491 following the procedures in this Article.

1492 * * *

1493 **ARTICLE 8. RUSTIC ROADS PROGRAM.**

1494 * * *

Sec. 49-77. Definitions.

In this Article, the following terms have the meanings indicated:

Committee means the Rustic Roads Advisory Committee.

Exceptional rustic road means an existing public road or road segment which is so classified under Section 49-78.

[*Master Plan of Highways* means the Master Plan of Highways Within Montgomery County, an amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District.]

Public utility means any private company or public agency that is regulated as a public utility under state law, or otherwise provides water, sewer, electric, gas, telephone, or cable service (as defined in Chapter 8A) in the County.

Rustic road means an existing public road or road segment which is so classified under Section 49-78.

Sec. 49-78. Rustic road classification and reclassification.

(a) *Classification.* The County Council may classify, reclassify, or revoke the classification of an existing public road or road segment as a rustic road or an exceptional rustic road by approving an amendment to the [Master Plan of Highways] functional plan and the relevant area [Master Plan] master plan.

* * *

Zoning Text Amendment No.: 22-10
Concerning: Streets and Roads
Draft No. & Date: 1 – 7/19/2022
Introduced: July 26, 2022
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- replace any reference to road or street types with the updated typology from Chapter 49;
- define Residential Streets; and
- generally amend provisions related to streets and roads.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 1.4	“DEFINED TERMS”
Section 1.4.2	“Specific Terms and Phrases Defined
DIVISION 2.2	“ZONING MAP”
Section 2.2.4	“Zoning and Development within Rights-of-Way
DIVISION 3.2	“AGRICULTURAL USES
Section 3.3.2	“Agricultural Processing”
Section 3.2.4	“Equestrian Facility”
Section 3.2.7	“Nursery”
Section 3.2.8	“Slaughterhouse”
Section 3.2.10	“Accessory Agricultural Uses”
Section 3.2.11	“Temporary Agricultural Uses
DIVISION 3.4	“CIVIC AND INSTITUTIONAL USES”
Section 3.4.2	“Charitable, Philanthropic Institutions”
Section 3.4.5	“Educational Institutions (Private)”
DIVISION 3.5	“COMMERCIAL USES”
Section 3.5.6	“Lodging”
Section 3.5.7	“Medical and Dental”
Section 3.5.8	“Office and Professional”

Section 3.5.9	“Parking”
Section 3.5.10	“Recreation and Entertainment”
Section 3.5.12	“Vehicle/Equipment Sales and Rental”
Section 3.5.13	“Vehicle Service”
DIVISION 4.6	“EMPLOYMENT ZONES”
Section 4.6.3	“Standard Method Development”
DIVISION 4.9	“OVERLAY ZONES”
Section 4.9.3	“Burtonsville Employment Area (BEA) Overlay Zone
DIVISION 6.2	“PARKING, QUEUING, AND LOADING”
Section 6.2.5	“Vehicle Parking Design Standards
DIVISION 6.6	“OUTDOOR DISPLAY AND STORAGE”
Section 6.6.3	“Design Standards”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

N.

* * *

Nonresidential Street: A right-of-way with a [business district street or higher] classification of Downtown Boulevard, Downtown Street, Town Center Boulevard, Town Center Street, Boulevard, Major Highway, Area Connector, and Industrial Street under Chapter 49.

* * *

R.

* * *

Residential Street: A right-of-way with a classification of Neighborhood Connector, Neighborhood Street, or Neighborhood Yield Street under Chapter 49.

* * *

Road[, Arterial]: A right-of-way with a classification of Freeway, Parkway, Controlled Major Highway, Boulevard, Town Center Boulevard, Downtown Boulevard, Town Center Street, Downtown Street, Industrial, Connector, Country Connector, Country, Rustic, Neighborhood Street, Neighborhood Yield Street or Alley[See]under Chapter 49.

[Road, Business: See Chapter 49.]

[Road, Primary Residential: See Chapter 49.]

* * *

Sec. 2. DIVISION 59-2.2 is amended as follows:

Division 2.2. Zoning Map

* * *

Section 2.2.4. Zoning and Development within Rights-of-Way

* * *

D. Development within Planned Rights-of Ways

1. In areas where the Commission has adopted a M[aster P]lan of H[ighways and Transitways] showing a proposed new highway or street or a proposed relocation or widening of an existing highway or street, or a proposed rapid transit route or facility, no building or part of a building is permitted to be erected within the planned acquisition line of such proposed highway or street, or rapid transit line or facility.

* * *

Sec. 3. DIVISION 59-3.2 is amended as follows:

Division 3.2. Agricultural Uses

* * *

Section 3.2.2. Agricultural Processing

* * *

B. Use Standards

Where Agricultural Processing is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 10 acres.
2. The minimum setback for an Agricultural Processing structure from any lot line is 75 feet.
3. The lot must front on and have access to a road built to [primary residential]Neighborhood Connector[road] or higher standards unless processing materials are produced on-site.

4. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.

Section 3.2.4. Equestrian Facility

B. Use Standards

1. Where an Equestrian Facility is allowed as a limited use, it must satisfy the following standards:

- g. Equestrian events are restricted as follows:

Site Requirements	Hours of Operation		Number of Participants and Spectators			
	Su-Th	Fr-Sa	Event	Informal Event	Minor Event	Major Event
			0-25	26-50	51-150	151-300
Up to 17.9 acres	6am-9pm	6am-10pm	Unlimited on any day	None	None	None
18 - 24.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	None	None
25 - 74.9 acres	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	None
75+ acres and direct access to a roadway with [an arterial] <u>an Area Connector</u> or higher classification	6am-9pm	6am-10pm	Unlimited on any day	Unlimited on Sat, Sun and holidays; maximum of 6 weekdays per month	Maximum of 7 per year	Maximum of 3 per year lasting up to 3 consecutive days each

Section 3.2.7. Nursery

A. Nursery (Retail)

2. Use Standards

- a. Where Nursery (Retail) is allowed as a limited use, any Nursery (Retail) over 5,000 square feet of gross floor area, may be a maximum of 50% of the mapped FAR.
- b. Where a Nursery (Retail) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The minimum lot area is 2 acres.
 - ii. The minimum building setback from any lot line is 50 feet; the minimum outdoor storage setback is 25 feet.
 - iii. The lot must front on and have access to a road built to [primary residential]Neighborhood Connector or higher standards. In the AR, R, and RC zones, this standard is not required if the Hearing Examiner finds that:
 - (a) Road access will be safe and adequate for the anticipated traffic to be generated; and
 - (b) The use at this location will not be an intrusion into an established residential neighborhood.

* * *

Section 3.2.8. Slaughterhouse

* * *

B. Use Standards

Where a Slaughterhouse is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

1. The minimum lot area is 20 acres.
2. The minimum setback from any lot line is 75 feet.

3. If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.

4. The lot must front on and have direct access to a road built to [primary residential]Neighborhood Connector or higher standards.

* * *

Section 3.2.10. Accessory Agricultural Uses

* * *

B. Farm Alcohol Production

* * *

2. Use Standards

a. Where Farm Alcohol Production is allowed as a limited use, it must satisfy the following standards:

* * *

xvi. In the RE-1 and RE-2 zones, for breweries, distilleries, and wineries:

(a) the minimum site area is 25 acres;

(b) the site must be located in an area classified as sewer category 6 in the Ten Year Comprehensive Water Supply and Sewerage Systems Plan; and

(c) access must be directly from a roadway classified in the approved Master Plan of Highways and Transitways as a [primary residential] Neighborhood Connector or higher roadway.

* * *

Section 3.2.11. Temporary Agricultural Uses

* * *

B. Seasonal Outdoor Sales

* * *

2. Use Standards

Where Seasonal Outdoor Sales is allowed as a limited use, it must satisfy the following standards:

* * *

e. In the Agricultural, Rural Residential, Residential, LSC, and EOF zones:

i. The property must be vacant or used for nonresidential purposes.

ii. Except where Seasonal Outdoor Sales occur on the site of a Religious Assembly use, the site must front on and have access to a road built to [primary residential]Neighborhood Connector or higher standards.

* * *

Sec. 4. DIVISION 59-3.4 is amended as follows:

Division 3.4. Civic and Institutional Uses

* * *

Section 3.4.2. Charitable, Philanthropic Institution

* * *

B. Use Standards

* * *

2. Where a Charitable, Philanthropic Institution is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

c. In the AR, R, RC, and RNC:

* * *

- ii. The site fronts on and has direct access to a public road built to [arterial]Area Connector or higher road standards. Frontage on and access to an [arterial]Area Connector or higher standard is not required where the Hearing Examiner finds that road access by a [primary residential or secondary residential road]Neighborhood Connector, Neighborhood Street or Neighborhood Yield Street will be safe and adequate for the anticipated traffic to be generated.

* * *

- g. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:

- i. The site fronts on and has direct access to a road built to [primary residential road]Neighborhood Connector or higher standards. Access to a corner lot may be from [an abutting primary street, constructed to]a [primary residential standards]Neighborhood Connector street, if the Hearing Examiner finds this access to be appropriate and not detrimental to existing residential uses on that [primary residential]Neighborhood Connector street.

* * *

Section 3.4.5. Educational Institution (Private)

* * *

C. Use Standards

* * *

2. Where an Educational Institution (Private) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

d. The number of pupils per acre allowed to occupy the premises at any one time must be specified by the Hearing Examiner considering the following factors:

i. traffic patterns, including:

(a) impact of increased traffic on residential streets;

(b) proximity to transit services, [arterial roads]Area Connectors, Town Center Streets, Downtown Streets, Boulevards, and Controlled major highways; and

(c) provision of measures for Transportation Demand Management in Chapter 42 (Section 42A-21).

* * *

Sec. 5. DIVISION 59-3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.6. Lodging

* * *

B. Bed and Breakfast

* * *

2. Use Standards

* * *

b. Where a Bed and Breakfast is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:

- i. The Hearing Examiner may deny a petition for a Bed and Breakfast with frontage on and access to a road built to less than [primary residential]Neighborhood Connector standards if it finds that road access will be unsafe and inadequate for the anticipated traffic to be generated or the level of traffic would have an adverse impact on neighboring residences.

* * *

Section 3.5.7. Medical and Dental

A. Clinic (Up to 4 Medical Practitioners)

* * *

2. Use Standards

* * *

- b. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - i. The minimum lot width at the front lot line is 100 feet.
 - ii. The minimum setback from a lot that is vacant or residentially improved is 40 feet. The minimum setback from all other abutting lots is 20 feet.
 - iii. The site must front on and have direct access to a [business district]Town Center Street or Downtown street or higher classification; however, access to a corner lot may be from an abutting street built to [primary residential]Neighborhood Connector standards, if the Hearing Examiner finds the access to be appropriate and

not detrimental to existing residential uses on the
[primary residential]Neighborhood Connector street.

Section 3.5.8. Office and Professional

B. Office

2. Use Standards

b. Where an Office is allowed as a conditional use, it may be
permitted by the Hearing Examiner under Section 7.3.1,
Conditional Use, and the following standards:

i. In the R-200, R-90, and R-60 zones:

(g) In the R-60 zone, the site must be:

- (1) designated as suitable for an Office or
nonresident professional office in a master
plan; and
- (2) located along a highway with an existing
right-of-way with a minimum width of 90
feet or along a portion of [an arterial road]a
Boulevard, Downtown Boulevard, Town
Center Boulevard, Area Connector,
Downtown Street, or Town Center Street
designated as a boundary of a Central
Business District area.

Section 3.5.9. Parking

* * *

C. Surface Parking for Use Allowed in the Zone

* * *

2. Use Standards

* * *

b. Where a sketch plan is not required:

i. the parking layout must accommodate the landscaping required under Section 6.2.9; and

ii. in the CRT, CR, LSC, and EOF zones:

(a) the surface parking must be providing parking for a use on an abutting lot or be a municipal public parking lot; and

(b) for properties on a [business district street]Downtown Street or Town Center Street, site plan approval is required under Section 7.3.4. The Planning Board must find that the surface parking supports commercial or residential uses that substantially conform with the recommendations of the applicable master plan.

Section 3.5.10. Recreation and Entertainment

* * *

D. Golf Course, Country Club

* * *

2. Use Standards

Where a Golf Course, Country Club is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. The maximum coverage is no more than 3%.
- b. The minimum setback for a principal building is 50 feet.
- c. In a Residential zone, the minimum frontage is 200 feet on a road of [arterial]Area Connector or higher classification.

G. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)

2. Use Standard

Where a Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 50 feet.
 - iv. Any structure or building must be set back from any lot line a minimum of 50 feet.
 - v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Collector or higher standards.

- b. In the R-200 zone:

- i. Only an outdoor catering facility is allowed. An enclosed food preparation building is allowed but all catering parties must be held under pavilions, or in the open, and may include various recreational activities.
- ii. The site must be a minimum of 80 acres.
- iii. The maximum building height is 20 feet.
- iv. Any structure, building, or parking area must be setback from any lot line a minimum of 100 feet.
- v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Collector or higher standards.

* * *

H. Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)

* * *

2. Use Standards

Where a Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

- a. In the RE-2C zone:
 - i. Only a group picnic, catering and recreation facility is allowed.
 - ii. The site must be a minimum of 80 acres.
 - iii. The maximum building height is 50 feet.
 - iv. Any structure or building must be set back from any lot line a minimum of 50 feet.

- v. The site must have direct access to a public road that is built to [primary residential]Neighborhood Connector or higher standards.

Section 3.5.12. Vehicle/Equipment Sales and Rental

B. Light Vehicle Sales and Rental (Indoor)

2. Use Standards

- a. Where Light Vehicle Sales and Rental (Indoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:
 - i. Access to the site from a street with a residential classification is prohibited.
- b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Indoor) use is allowed must also be:
 - i. less than 10 acres in size;
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at

least]as an [arterial]Area Connector or higher
classification roadway.

* * *

C. Light Vehicle Sales and Rental (Outdoor)

* * *

2. Use Standards

a. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:

i. Access to the site from a street with a residential classification is prohibited.

* * *

b. In the EOF zone, the tract on which a Light Vehicle Sales and Rental (Outdoor) use is allowed must also be:

- i. less than 10 acres in size;
- ii. located at least 3,000 feet from a Metrorail Station;
- iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
- iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at least]as an [arterial]Area Connector or higher
classification roadway.

* * *

Section 3.5.13. Vehicle Service

* * *

E. Repair (Major)

2. Use Standards

- b. In the EOF zone, the tract on which a Repair (Major) use is allowed must also be:
 - i. less than 10 acres in size; and
 - ii. located at least 3,000 feet from a Metrorail Station;
 - iii. abutting land that is not zoned in a rural residential or residential classification with any residential use located on the abutting land; and
 - iv. abutting 2 or more rights-of-way; at least one of the abutting rights-of-way must be classified as a freeway and one other abutting right-of-way must be classified [at least]as an [arterial]an Area Connector or higher classification roadway.

* * *

Sec. 6. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

* * *

Section 4.6.3. Standard Method Development

* * *

D. LSC Zone, Standard Method Development Standards

1. Site	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							

a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a [business district street]Downtown Street or Town Center Street or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.

* * *

Specification for Building Orientation and Transparency

a. Building Orientation and Transparency requirements only apply when the development fronts on a [business district street]Downtown Street or Town Center Street or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.

414

415 **E. EOF Zone, Standard Method Development Standards**

416

1. Site	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							
a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							
* * *							
Specification for Building Orientation and Transparency							
a. Building Orientation and Transparency requirements only apply when the development fronts on a [business district street] <u>Downtown Street or Town Center Street</u> or a build-to line is recommended in the applicable master plan. The Planning Board may modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.							

417

418 * * *

419 **Sec. 7. DIVISION 59-4.9 is amended as follows:**

Division 4.9. Overlay Zones

* * *

Section 4.9.3. Burtonsville Employment Area (BEA) Overlay Zone

* * *

C. Development Standards

1. When property in the Overlay zone abuts a property that is not located in the BEA Overlay zone, all buildings in the Overlay zone must be set back as follows:

- a. 100 feet from any Residential zone developed with or proposed for residential uses in a master plan, or from a Boulevard or a Controlled major highway separating the Overlay zone from such residential uses;
- b. 50 feet from a railroad or utility right-of-way that separates the employment area from a Residential zone;
- c. 50 feet from a limited-access freeway or parkway;
- d. 50 feet from property recommended in a master plan for a nonresidential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility, or similar use;
- e. 25 feet from an [arterial]Area Connector or higher classification road that separates the employment area from a Commercial/Residential or Employment zone;

* * *

Sec. 8. DIVISION 59-6.2 is amended as follows:

Division 6.2. Parking, Queuing, and Loading

* * *

Section 6.2.5. Vehicle Parking Design Standards

447 * * *

448 **M. Surface Parking in R-200, R-90, R-60, and R-40 Zones**

449 * * *

450 3. A surfaced parking area may exceed the size limits in
451 Section 6.2.5.M.2 if:

- 452 a. the surfaced parking area existed before October 26, 2010 and
453 is not increased in size;
- 454 b. the property has primary access from a [primary residential
455 street, minor arterial road]Neighborhood Connector Street,
456 major highway, [arterial]Area Connector, Downtown
457 Boulevard, Town Center Boulevard, boulevard, or any state
458 road, and is equal to or less than 50% of the area between the
459 lot line and the front or side street building line;

460 * * *

461 **Sec. 9. DIVISION 59-6.6 is amended as follows:**

462 **Division 6.6. Outdoor Display and Storage**

463 * * *

464 **Section 6.6.3. Design Standards**

465 * * *

466 **B. Outdoor Storage**

467 * * *

468 2. General Outdoor Storage

469 * * *

470 b. Standards

471 General outdoor storage is permitted and must:

- i. in the Industrial zones, include screening of inventory and equipment under Section 6.5.3, unless the use abuts or confronts property in an Industrial zone; and
- ii. in all other zones:
 - (a) have an approved plan illustrating the extent of the permitted area for general outdoor storage;
 - (b) be located on property that fronts on and has direct access to a road built to [primary]neighborhood connector street or higher standards;

* * *

Sec. 10. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

Subdivision Regulation Amendment
No.: 22-01
Concerning: Streets and Roads
Draft No. & Date: 1 – 7/19/2022
Introduced: July 26, 2022
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Alborno at the Request of the County Executive

AN AMENDMENT to the Montgomery County Subdivision Ordinance to:

- replace any reference to road or street types with new typology that implements the Complete Streets Design Guide and matches the updates to Chapter 49 in Bill 24-22;
- modifies the design standards of certain road types including intersection spacing and horizontal alignment, based on the Complete Streets Design Guide; and
- generally amend provisions relating to streets and roads.

By amending the following sections of the Montgomery County Subdivision Ordinance, Chapter 50 of the Montgomery County Code:

DIVISION 50.4
Section 50.4.3

“PRELIMINARY PLAN”
“Technical Review”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 50.4 is amended as follows:

* * *

Section 4.3. Technical Review

* * *

E. Roads.

1. Plan requirements.

- a. *Master plan roads.* Preliminary plans must include roads shown on any adopted Master Plan of Highways and Transitways, in satisfaction of the Road Design and Construction Code. Where applicable, an approved plan must include recommendations of the State Highway Administration for construction and access to State roads. Where private roads are specifically recommended by a master plan, the roads must be provided to the standards for private roads under this Section.

* * *

2. Design standards.

* * *

f. Intersection.

- i. Roads must be laid out to intersect as nearly as possible at right angles. The Board must not approve a proposed intersection of new roads at an angle of less than 70 degrees.
- ii. The distance between proposed road intersections, excluding alleys and driveways, must be spaced as shown in the table below, as measured from the centerline of the intersections. When the Board finds that a greater or lesser distance is appropriate, the Board may specify a greater or lesser distance than otherwise required after considering the recommendation of the transportation agency responsible for maintaining the road.

On streets with operating speeds of 30 mph or higher, protected crossings include HAWK signals, all-way stop controlled intersections, or grade-separated crossings. Protected crossing spacing targets are shown in the table below, as measured from the centerline of the intersections. Engineering judgement is needed to determine the ultimate placement and spacing between signals, with a focus on sight lines, road safety, location of trip generators, bus stops, and prevalent crossing patterns. Where ranges are provided, the lower end of the range is recommended in commercial areas, on BRT corridors, and near schools (or similar destinations).

<i>Road Classification</i>	<i>Locale</i>	<i>Distance Between Intersections (FT)</i>	<i><u>Maximum Protected Crossing Spacing Targets (FT)</u></i>
[Tertiary Residential]	[All]	[150]	
[Secondary Residential] <u>Neighborhood Street and Neighborhood Yield Street</u>	[Urban] <u>All</u>	200	<u>N/A</u>
	[Suburban]	[200]	
	[Rural]	[200]	
[Primary and Principal Secondary] <u>Connectors, Neighborhood and Area</u>	[Urban] <u>Downtown and Town Center</u>	300	<u>600</u>
	Suburban	400 – 600	<u>600 – 1,200</u>
	[Rural] <u>Country</u>	400 – 800	<u>600 – 1,200</u>
[Business District and] Industrial	[Urban] <u>All</u>	[300*] <u>400</u>	<u>800</u>
	[Suburban]	[400*]	
	[Rural]	[400*]	
Country Road	<u>All</u>	400	<u>1,300 – 2,700</u>
Country [Arterial] <u>Connector</u>	<u>All</u>	800	<u>1,300 – 2,700</u>
[Minor Arterial]	[Urban]	[300]	
	[Suburban]	[500]	
	[Rural]	[800]	

[Arterial]	[Urban]	[300*]	
	[Suburban]	[600*]	
	[Rural]	[800*]	
<u>Downtown Boulevard</u>	<u>All</u>	<u>400</u>	<u>400</u>
<u>Town Center Boulevard</u>	<u>All</u>	<u>600</u>	<u>600</u>
<u>Boulevard</u>	<u>All</u>	<u>800</u>	<u>800 – 1,000</u>
<u>Downtown Street</u>	<u>All</u>	<u>400</u>	<u>400</u>
<u>Town Center Street</u>	<u>All</u>	<u>400</u>	<u>400</u>
[Major Highway]	[Urban]	[300*]	
	[Suburban]	[800*]	
	[Rural]	[1000*]	
Controlled Major Highway	[Urban] <u>All</u>	[300] <u>1,000</u> *	<u>1,300</u>
	[Suburban]	[1000*]	
	[Rural]	[1000*]	
Parkway	[Urban] <u>All</u>	[300] <u>800</u> *	<u>800</u>
	[Suburban]	[600*]	
	[Rural]	[800*]	

*NOTE: Median breaks on divided roadways must be no closer than 600 feet except in Downtown Areas.

* * *

g. *Horizontal alignment.* In all public and private [primary, secondary and tertiary] residential streets and culs-de-sac, the alignment must be designed so that all deflections in horizontal alignment are accomplished through segments of circular curves properly incorporated into the design. The minimum permitted centerline radii must be:

- i. [Primary roads] Neighborhood Connectors 300 feet
- ii. [Secondary roads] Neighborhood Streets and Neighborhood Yield Streets more than 500 feet in length 150 feet
- iii. [Tertiary roads] Neighborhood Streets and Neighborhood Yield Streets less than 500 feet in length 100 feet

The Board must specify greater radii when safety requires. A tangent at least 100 feet long must be used between two reverse curves, except in a [secondary or tertiary residential street] Neighborhood Street or a Neighborhood Yield Street. The Board may specify a lesser radius when the Department of Transportation has previously issued a design exception for a similar design.

* * *

4. *Additional standards for private roads.*

* * *

d. *Road classifications.* When the Department of Transportation determines that the proposed road is not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility, and future potential transportation or other systemic needs that serve the public on a long-term basis, and is not needed to be part of the network modeled for area capacity, consideration will be given to making the following roads private:

- i. Only roads classified as either [Business District] Downtown Street, Town Center Street, Industrial, [Secondary, Tertiary] Neighborhood Street, Neighborhood Yield Street, or Alley may be considered by the Board to be private. All other road classifications must be public unless specifically permitted to be a private road by a master plan.
- ii. Private roads with improvements above or below the pavement are only allowed in projects that require site plan review and approval.

- iii. Private roads should not be permitted if they will create a segmented road ownership pattern, unless approved by the Planning Board.
- iv. Private roads must not be permitted if they will negatively affect development of other properties.
- v. Except where a Master Plan indicates that a [Business District] Downtown Street or Town Center Street [street] could be private, a [Business District road] Downtown Street or Town Center Street may be a private road only when it is not required to provide an adequate traffic level of service. A private [Business District] Downtown Street or Town Center Street [street] may be approved only when the proposed road is either not a connector between two higher classification roads or a road that is not planned to extend beyond the boundary of the preliminary plan.
- vi. An industrial road may be a private road only when the road is part of roads internal to the industrial site and the road is not a connector between higher classified roads.
- vii. A [secondary road] Neighborhood Street or a Neighborhood Yield Street may be a private road only when it
 - (a) connects to no more than one higher classification road and the road does not need to be extended onto adjacent property to facilitate a future subdivision of land[.]; and,
 - (b) when it has a cul-de-sac less than 500 feet in length.
- [viii. A tertiary road, when a cul-de-sac, must be less than 500 feet in length.]

* * *

108 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
109 date of Council adoption.

110

July 7, 2022

TO: The Honorable Gabe Alborno
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

Subject: Zoning Text Amendment and Subdivision Regulation Amendment –
Complete Streets

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on March 31, 2022 and by a vote of 4:0 (Commissioner Patterson absent) recommended transmitting the attached draft Zoning Text Amendment (ZTA) and Subdivision Regulation Amendment (SRA) to make changes necessary to implement the Complete Streets Design Guide (CSDG) and to be consistent with pending changes to Chapter 49, the Road Code. The draft ZTA and SRA should be considered concurrently with the changes to Chapter 49 to ensure they are consistent and because these three chapters rely on each other for clarity in their use.

The proposed SRA updates the Technical Review Section 50.4.3, specifically about Roads. The SRA updates standards for intersection spacing and provides new guidance on protected intersections, which are integrated into the existing standards within that chapter. The code is also updated to replace all occurrences of existing street types with the new street typologies from the CSDG.

The proposed ZTA is a highly technical update, focusing almost entirely on replacing the existing road types referenced throughout Chapter 59 with the new CSDG road types. The ZTA also proposes a definition for Residential Streets, which is a term found frequently in the land use standards section of the code but has lacked a definition.

The Board appreciates the Council’s consideration of the proposed ZTA and proposed SRA implementing the CSDG in coordination with the updates also proposed by the County Executive for Chapter 49, the Road Code. It is the Board’s recommendation that all three chapters of code be

The Honorable Gabe Albornoz

July 7, 2022

Page Two

introduced and reviewed concurrently to avoid confusion and to ensure the CSDG is implemented seamlessly.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, March 31, 2022.



Casey Anderson

Chair

Attachment A: Proposed SRA

Attachment B: Proposed ZTA

CA:BB:aj

LEGISLATIVE REQUEST REPORT

Bill XX-22

Chapter 49 - Streets and Roads – Complete Streets

DESCRIPTION:	This Bill revises Chapter 49 to apply complete streets standards to the design and construction of roads and road improvements.
PROBLEM:	The road standards need to be updated to better address modern transportation needs. Complete Streets are roadways that are designed and operated to provide safe, accessible, and healthy travel for all users of the roadway system, including pedestrians, bicyclists, transit riders, and motorists.
OBJECTIVE:	Adopt complete streets standards. These are a critical component of implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.
COORDINATION:	Department of Transportation and Department of Permitting Services.
FISCAL IMPACT:	Office of Management and Budget.
ECONOMIC IMPACT:	Office of Legislative Oversight
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	Inapplicable.
SOURCES OF INFORMATION:	<p>Maricela Cordova, Special Assistant to the Director, Strategic Projects Department of Transportation 240-777-7235</p> <p>Andrew Bossi, P.E., Senior Engineer, Transportation Policy Department of Transportation 240-777-7170</p> <p>Atiq Panjshiri, Manager, Right of Way Plan Review Department of Permitting Services 240-777-6352</p>
APPLICATION WITHIN MUNICIPALITIES:	Varies. Applicable to municipalities governed by Chapter 49.
PENALTIES:	Inapplicable.

Fiscal Impact Statement
Bill XX-22 Streets and Roads – Complete Streets

1. Legislative Summary

This Bill amends Chapter 49 to apply complete streets standards to the design and construction of roads and road improvements.

The road standards need to be updated to better address modern transportation needs. Complete Streets are roadways that are designed and operated to provide safe, accessible, and healthy travel for all users of the roadway system, including pedestrians, bicyclists, transit riders, and motorists. Complete streets standards are a critical component of implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.

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.

It is anticipated that this Bill will have no changes to County revenues or expenditures.

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

This Bill is not anticipated to have an impact on revenues and expenditures for the next six fiscal years.

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

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

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

This Bill does not authorize future spending.

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

This Bill does not require additional staff time to implement; work will be absorbed with existing resources.

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

This Bill will not have an impact on other staff duties.

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

No additional appropriation is needed to implement this Bill.

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

Not applicable.

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

The Bill's impact on revenues or expenditures are difficult to project. Further analysis will be included in an Economic Impact Statement provided by the Office of Legislative Oversight.

12. Other fiscal impacts or comments.

None.

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

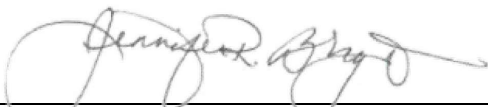
There are no anticipated changes to capital project costs resulting from this legislation.

This Bill incorporates Complete Streets guidelines for planning and design, which generally prioritize pedestrian and bike facilities over roadways. Implementation of these guidelines is generally cost neutral. For example, while sidewalks and bikeways might be one to two feet wider as a result of the guidelines, roadways would be one to two feet narrower, resulting in no additional net cost. Construction costs for County projects will continue to vary based on the nature of the project.

Furthermore, it is not expected that any additional project design work will be needed to comply with this legislation. MCDOT is in the process of implementing the guidelines in all ongoing capital planning and design projects, and there is no need for redesign to apply the guidelines retroactively.

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

- Maricela Cordova, Department of Transportation
- Andrew Bossi, Department of Transportation
- Atiq Panjshiri, Department of Permitting Services
- Gary Nalven, Office of Management of Budget



Jennifer R. Bryant, Director
Office of Management and Budget

6-3-22

Date




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

M E M O R A N D U M

July 6, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Amendment to County Code; Chapter 49
Streets and Roads – Complete Streets

I am writing to request that Council introduce the attached Proposed Amendment to Chapter 49 of the County Code. This proposed bill incorporates Complete Streets principles into the design and construction of roads and amends Chapter 49 to modernize the street and road standards.

The road standards must be updated to address modern transportation needs. Complete Streets are designed to provide safe, accessible, and healthy travel for all users of the roadway system including pedestrians, bicyclists, transit riders, and motorists. These standards are critical to implementing the County's Vision Zero goal of eliminating traffic deaths by 2030.

I appreciate your prompt consideration of this action.

Bill No. _____ [Click - type number]
Concerning: Streets and Roads
Revised: [date] Draft No. [#]
Introduced: [date]
Expires: [18 mos. after intro]
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: [date expires]
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) amend Chapter 49 to incorporate complete streets principles into the design and construction of roads; and,
- (2) generally amend Chapter 49 to modernize the street and road standards.

By amending

Montgomery County Code

Chapter 49, Streets and Roads

Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78

Boldface	<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. Sections 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-9, 49-10, 49-11, 49-11A, 49-12, 49-14, 49-17, 49-19, 49-19A, 49-19B, 49-20, 49-21, 49-22, 49-23, 49-25, 49-26, 49-27, 49-28, 49-29, 49-30, 49-31, 49-32, 49-33, 49-34, 49-35, 49-36, 49-36A, 49-37, 49-38, 49-39, 49-40, 49-45, 49-50, 49-51, 49-53, 49-57, 49-62, 49-77 and 49-78 are amended as follows:

ARTICLE 1. IN GENERAL.

Sec. 49-1. Compliance with standards; regulations; penalty for violations.

(a) A public road, bridge, sidewalk, or bikeway must not be constructed, reconstructed, repaired, graded, improved or maintained by any person unless the construction, reconstruction, repair, improvement, grading or maintenance fully complies with this Chapter and any regulations issued under it.

* * *

Sec. 49-2. Resolving doubt as to location of County roads.

(a) Whenever any doubt exists as to the proper location or width of a County road, the Director of Transportation may cause the road to be surveyed and a description and plat made of it and recorded [or filed] in the County land records. [This description and plat must be treated as correct by the County and in the State courts until shown to be incorrect.]

* * *

Sec. 49-3. Authority to classify road repairs.

The Director of Transportation may decide whether a [given] road repair [job] should be classified as maintenance or construction under this Chapter.

Sec. 49-4. Public-private participation.

The County Executive[, on behalf of the County,] may contract with any person[,] who is [building a real estate development or subdivision] developing land in the County[, to participate in the cost of any [street] road, including any sidewalk, bikeway, gutter, curb or drainage construction, landscaping, traffic control device, bikeshare station, electric vehicle charging station, or placement of utilities, conduits, or other amenities in a [street or] road dedicated to public use.

Sec. 49-5. Right to drain dedicated roads without liability to abutting owners.

If any road is dedicated to the use of the public by a private grant, the grant must include the right [at all times] to properly drain the road, including a grant to the County of any necessary easements, without liability of the County to any abutting owner for any resulting injury.

Sec. 49-6. Roads used for 20 years may be declared public highways.

[(a)] Whenever any road has been used by the public for 20 or more years, though the road may never have been condemned or granted as a public [highway] road and regardless of whether the road termini are public, the County Executive may by Executive order published in the County Register declare the road to be [a] public [highway].

[(b)] The public right-of-way of a road declared as a public highway under subsection (a) must include permanent maintenance easements which extend 10 feet beyond each pavement edge.]

Sec. 49-7. Authority of special taxing districts to regulate streets and roads.

[(a)] Any special taxing district which has the authority to pave and maintain streets and roads may adopt and amend reasonable regulations under Method (2) governing the construction, maintenance, improvement,

grading, and repairing of the roads and streets in the district, including those dedicated for public use.

[(b) In adopting regulations, the special taxing district may, by resolution, incorporate any similar County regulation.]

* * *

Sec. 49-9. Removal of items that obstruct the vision of motorists on public highways or interfere with the use of public rights-of-way.

(a) Notice to owner of property. If the Director of Transportation finds that any tree, bush, vine, undergrowth, or other obstruction, except a building or similar structure affixed to the ground, on private property poses a threat to public safety by obstructing the vision of operators of vehicles traveling on any public [street,] road[, or highway,] interfering with the public rights-of-way as a traffic hazard, limiting access by Fire and Rescue Service vehicles, or restricting the use by pedestrians or bicyclists of the public rights-of-way, the Director promptly must serve on the owner, agent, lessee or any other person supervising the property a written notice that:

* * *

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

Except as provided in Section 49-11, in the public right-of-way, a person must not:

(a) place, maintain, use, permit, allow, 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;]

[(c)](b) perform any reconstruction or maintenance work; or

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

- (1) [mail boxes] mailboxes 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(j);
- (4) ground cover placed and maintained under Section 49-33(k);
- (5) a temporary, removable obstruction or occupation of a right-of-way installed under a permit issued under Section 49-11; or
- (6) as otherwise permitted by law.

Any object placed in the public right-of-way under Section 49-10[(d)](c) 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.

Sec. 49-11. Permit to obstruct public rights-of-way.

(a) *Definitions.* In this [section] Section, the following terms have the meanings indicated.

Public includes pedestrians, bicyclists, and transit users.

Safe alternative path means an alternate [walkway or shared use path] sidewalk or sidepath that:

(A) is on the same side of the street as a temporary closure; and

(B) provides safe access and passage to pedestrians.

Temporary closure means a temporary obstruction, blockage, or occupation of a right-of-way under a permit issued by the Director of Permitting Services under this Section.

(b) [Notwithstanding Section 49-10, and subject] Subject to subsections (c) and (d) of this Section, the Director of Permitting Services may issue a permit to:

(1) reconstruct or repair a sidewalk, [shared use path] sidepath, driveway, curb, or other structure;

(2) repair, locate, or replace underground utilities or infrastructure under a sidewalk or [shared use path] sidepath;

(3) install a temporary, removable obstruction or occupation of a right-of-way;

(4) close a curb lane, sidewalk, or [shared use path] sidepath in conjunction with the construction or reconstruction of an abutting structure;

(5) install permanent, nonstandard structures in the right-of-way that were approved by the Planning Board, the City of Rockville, or the City of Gaithersburg in a site plan as a site element of streetscape. Streetscape [includes] means street furnishings[, and] fixtures [and elements in connection with] used by the public [use of] in the right-of-way but does not include [enclosed] structures [or vaults] or improvements for private use. The permit applicant must execute a declaration of covenants that runs with the land on which [the project associated with] the streetscape [is being developed]

will be installed to perpetually maintain the permitted streetscape in a good and safe condition; return the right-of-way to its condition before the permitted streetscape was installed if the nonstandard permitted streetscape is removed; and indemnify the County from any cost or liability associated with the construction, maintenance, use or removal of the nonstandard permitted streetscape; or

- (6) install a private, non-commercial structure that is accessory to a residential use. The permittee must execute a maintenance and liability agreement that is approved by the Director of the Department of Permitting Services.

* * *

- (d) *Time limits for temporary closures without safe alternative paths.* Except as provided in subsections (e) and (f):

- (1) a temporary closure to reconstruct or repair a sidewalk or [shared use path] sidepath must not exceed 6 months without the provision of a safe alternative path; and
- (2) any other temporary closure must not exceed 15 days without provision of a safe alternative path.

* * *

- (f) *Short extensions for hardship.*

- (1) The Director may grant one extension of a time period under subsection (d), for no more than 15 days, on a showing [of extreme] by the applicant of undue hardship involving significant difficulty or expense.

(2) The Executive must adopt regulations under Method [(2)] (3) to specify the standards a permittee must meet to demonstrate [extreme] undue hardship involving significant difficulty or expense.

* * *

Sec. 49-11A. Permit to temporarily obstruct private roads.

(a) A person must not close any portion of a private road that is an urban road as defined in Section 49-32 without a permit from the Director of Permitting Services.

(b) The Director of Permitting Services may issue a permit for the complete or partial closure of a private road on a temporary basis if the closure does not:

(1) violate Chapter 22;

(2) [unreasonably] interfere with use of the private road by persons with disabilities;

(3) [unreasonably] impede or endanger the users of any building or structure adjacent to or abutting the private road; or

(4) adversely impact the use of connecting public roads.

* * *

(d) The Director of Permitting Services may charge a fee, set by Method (3) regulation, for the permit application and may include conditions in each permit that provide for the safety of any user of a building or structure adjacent to or abutting the private road, including providing for safe alternate access to and egress from any building or structure.

* * *

Sec. 49-12. Exemptions from Sections 49-10 and 49-11.

(a) Subject to paragraphs (1) and (2), Sections 49-10 and 49-11 do not apply to, and no permit under those Sections is required of, any municipality, special taxing district or government agency [authorized by law] to construct streets, roads, sewers, or drainage facilities in the County over which the entity has jurisdiction. However:

(1) Sections 49-10 and 49-11 apply to any road that is located in a municipality and owned or maintained by the County; and

(2) if the County owns or maintains a right-of-way, Section 49-11 applies to any temporary closure of the right-of-way [in connection with construction or reconstruction on abutting property owned by the County].

[(b) Sections 49-10 and 49-11 do not apply to any vehicle operated by a fire department, public utility, or first aid provider, while that vehicle is being used to provide emergency services.]

* * *

Sec. 49-14. Debris likely to injure persons, animals, or vehicles.

A person must not place or leave in or on any public [highway or street] road, any debris liable to cause injury or damage to any vehicle or personal property. Any violation of this Section is a Class C violation.

* * *

Sec. 49-17. Accumulation of snow and ice on property prohibited.

(a) *Legislative [Findings] findings.*

(1) During significant winter storm events, Montgomery County's sidewalks often become impassable and covered in piles of snow

- 9 -

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[my.sharepoint.com/personal/jeffrh01_montgomerycountymd_gov/documents/items/s for director's signature/june 2022/to be processed/chapter 49/3 - ch49 - bill xx-22 - streets roads.4.26.22.final.docx](https://my.sharepoint.com/personal/jeffrh01_montgomerycountymd_gov/documents/items/s%20for%20director's%20signature/june%202022/to%20be%20processed/chapter%2049/3%20-%20ch49%20-%20bill%20xx-22%20-%20streets%20roads.4.26.22.final.docx)

that are pushed aside from the road as a result of County and State snowplows. The scope of the problem is prevalent on Montgomery County's busiest roads, where sidewalks are often within an arm's reach of traffic.

(2) These blocked sidewalks often persist for days following the end of a snowstorm, creating a significant pedestrian safety hazard that often forces pedestrians to walk in a lawn with oncoming traffic.

(3) County law allocates the responsibility of property owners to clear snow on a public sidewalk fronting their property within 24 hours of the end of snowfall. However, such clearing rarely occurs due to a variety of reasons, including the difficulty of removing the large piles of compacted snow and ice created by plow trucks.

(4) The County, in its current operation, clears sidewalks in urban districts and approximately sixty (60) miles of sidewalks with no adjacent residential or commercial property owner outside of such areas.

(5) Snow-covered and icy sidewalks adversely affect essential workers and commuters, who often travel by foot or public transportation, and must walk along high-traffic roads to get to bus stops and retail stores.

(6) It is in the best interest of the County to adopt fair, reasonable and equitable legislation to address safety hazards and increase walkability access on sidewalks for pedestrians during winter storms.

(b) (1) *Definitions.* In this Section:

(A) *Commercial property* means real property that either:

- 222 (i) is not designed for or intended for human habitation;
 223 or
 224 (ii) contains a multi-family dwelling of four or more
 225 units.
- 226 (B) *Residential property* means real property containing either:
 227 (i) a [single family] single-family dwelling; or
 228 (ii) a [multifamily] multi-family dwelling of three or
 229 fewer units.
- 230 (C) *Department* means the Department of Transportation.
- 231 (D) [*Non-Buffered Sidewalk*] Non-buffered sidewalk means a
 232 sidewalk along a roadway that does not contain a grass strip
 233 or other physical separation between the sidewalk and the
 234 adjacent curb or road edge.
- 235 (E) *Orphan [Sidewalk]* sidewalk means a sidewalk either
 236 abutting a State or County road and be located:
 237 (i) adjacent to a vacant lot;
 238 (ii) an overpass with no adjacent commercial or
 239 residential property adjoined; or
 240 (iii) behind a residential or commercial property that is
 241 not directly accessible from the owner's property and
 242 is separated from the sidewalk by a fence, guardrail,
 243 or change in elevation grade.
- 244 (2) A person is responsible for removing snow and ice on any
 245 sidewalk, sidepath, other [walkway] areas intended for public
 246 pedestrian access, [shared use path,] or parking area on or adjacent
 247 to property that the person owns, leases, or manages, [including

any walkway in the public right-of-way,] to provide a pathway wide enough for safe pedestrian and wheelchair use. For purposes of this Section, commonly owned property between a single-family residential lot and a common [walkway] sidewalk or sidepath is considered part of the lot if the intervening common property includes a [walkway] sidewalk, sidepath, or driveway that serves only that lot.

(3) Except as provided in paragraph (5), each owner, tenant, or manager is jointly and severally responsible for clearing snow and ice from the property and complying with Section 31-26A(d).

(4) The requirements of this Section do not apply to:

(A) an unpaved [walkway] sidewalk;

(B) a private [walkway] sidewalk or parking area on the property of a single-family residence;

(C) a public [walkway] sidewalk or sidepath behind a single-family residence that is not directly accessible from the owner's property;

(D) a [walkway] sidewalk that:

(i) is at least 25 feet from vehicular traffic;

(ii) serves only pedestrian destinations that are also accessible by another [walkway] sidewalk that this Section requires to be cleared;

(iii) was not routinely cleared of snow and ice after August 1999; and

(iv) is not the primary route for pedestrian access to a winter recreational facility open to the public; or

(E) any non-buffered sidewalk or path as specified under Section 49-17(j), regardless if the private property is fronting or abutting the sidewalk.

(5) (A) An individual who lives in a multi-family residential property is not responsible for removing snow and ice from a common [walkway] sidewalk, sidepath, or parking area.

(B) A homeowners' association, as that term is used in State law, is not responsible for removing snow and ice from a [walkway] sidewalk or sidepath adjacent to a single-family residential lot, if the lot owner is responsible under paragraph (1) for removing snow and ice from that [walkway] sidewalk or sidepath.

(c) If ice or hardpacked snow is impossible or unreasonably difficult to remove, the person is responsible for applying sufficient sand, other abrasives, or salt to provide safe pedestrian use.

(d) The person is responsible for removing snow and ice within 24 hours after the end of the precipitation that caused the condition. If a snowplow redeposits snow or ice on a sidewalk, sidepath or other [walkway] area intended for pedestrian access after a person has complied with this

Section, the person is not responsible for clearing the [walkway] area until 24 hours after the snowplow redeposited the snow or ice.

- (e) The County Executive must designate a department to enforce this Section and may designate other County employees or contractors to enforce this Section.
- (f) The Executive may order a different deadline or conditions for removing snow and ice during or immediately after a severe or unusual storm or other public-safety condition.
- (g) In addition to any other remedy or penalty for a violation of this Section, the County may clear the snow and ice and charge the responsible property owner for the cost, which the County may collect in the same manner as property taxes.

(h) *Violations.*

* * *

(i) *Sidewalk [Snow Removal Plan] snow removal plan.*

* * *

(j) *Sidewalk [Snow Removal] snow removal – Required.* The Executive must implement a plan and require the Department to remove or cause to be removed snow and ice accumulation from the last day of precipitation within the following designated areas:

* * *

Sec. 49-19. Conversion of overhead lines to underground locations.

If the construction or improvement of any County road requires any person to relocate any overhead electric, telephone, or other overhead line or related facility in any County road right-of-way, the County Executive must, by regulation adopted

under [method] Method (3), require that any affected line must be installed underground if the Executive finds that underground installation is desirable after considering the following factors:

* * *

Any regulation to implement this Section must require the replacement of any street light removed during the [conversion of any line to an underground location] installation of underground facilities.

Sec. 49-19A. [Energy-efficient street lights.

- (a) *Definitions.* In this Section, the following words have the meanings indicated:

Director means the Director of the Department of Transportation.

Light-emitting diode or *LED light* means a semiconductor device that produces visible light when an electrical current is passed through it.

- (b) When any contract to maintain street lights owned by the County in effect on January 21, 2014, expires, any later maintenance contract must be with a company that commits to install LED lights or another energy-efficient technology that the Director finds is equivalent or superior to LED lights.

Sec. 49-19B] Permit exemption for the Purple Line.

- (a) The State of Maryland, including its agencies and divisions, is exempt from any permitting requirement in Chapters 8 (“Buildings”), 17 (“Electricity”), 22 (“Fire Safety Code”), and 49 (“Streets and Roads”) for the construction of:

(1) any portion of the Purple Line that is located within the public right-of-way under a valid franchise agreement approved by the County Council under Section 49-21; and

(2) any structure related to the Purple Line owned by the State of Maryland or its agencies or divisions, including any hiker/biker trail that will be owned or maintained by the County.

(b) However, the State of Maryland, and its agencies, divisions, and contractors, must obtain any permit required under Chapter 8, 17, 22, and 49 for the construction or alteration of any structure owned by the County, except the hiker/biker trail, or by a private person or entity.

ARTICLE 2. FRANCHISES.

Sec. 49-20. Franchises for use of street; procedure for granting; notice and hearing.

The Council [must not grant any] may approve a franchise [in relation to] for the occupation of any [highway, avenue, street, lane, alley,] road or other right-of-way, either on, above, or below the surface[, until all requirements of this Article have been met] if the following requirements are met:

(a) *Application to be published.* The applicant must publish notice of each application for [any] a franchise once a week for 3 successive weeks in one or more newspapers of general circulation in the County, specifying:

(1) [the essential] a summary of terms of the proposed franchise;

(2) the compensation the County [will] may receive, [which may take the form of] including in-kind goods and services [as well as cash payments]; and

(3) the location, character, and extent of the use of the right-of-way.

(b) *Inquiry as to value.* [After the notice required by subsection (a) is published, the] The County Executive or a designee [must] may investigate the value of the proposed franchise and the adequacy of the compensation proposed to be paid for it.

(c) *Hearing on objections.* If any taxpayer, or any property owner whose property [right] rights may be affected by the grant of the franchise, files an objection to the granting of the franchise in writing with the County Executive within 10 days after the last notice required by subsection (a) appears, the County Executive or a designee must hold a hearing within 15 days after the objection is filed on the proposed franchise and any objections to it.

(d) *Recommendations of County Executive.* The County Executive must, [in each case,] after any hearings required by this Article, forward to the Council written recommendations concerning the proposed franchise, including the Executive's findings as to the value of the proposed franchise, any response to objections which have been raised, and any other relevant issues.

* * *

Sec. 49-21. Council action.

(a) [If the Council finds that granting the franchise is expedient and proper, the] The Council may grant [such] a franchise for such compensation as it, after considering the recommendations of the County Executive, finds proper, for a period not longer than 25 years. If the franchise allows the location of a permanent structure with a useful life [substantially] longer than 25 years in the County right-of-way, the initial term of the franchise may exceed 25 years.

(b) [At the option of the Council, the approved] The franchise may allow the [grantee] franchisee to renew the franchise, after [a fair revaluation,] the County determines the value of the renewed franchise [including the value, if any, derived from the franchise or renewals,] for one or more terms that each do not cumulatively exceed [another] 25 years.

(c) Every grant of any franchise must provide, by forfeiture of the grant, for compelling compliance with its terms [and to secure efficiency of public service at reasonable rates] and the maintenance of the [property] right-of-way in good condition, throughout the grant. [Each grant must also specify:

- (1) the mode of determining any valuation and revaluation under this Article,
- (2) the time limit to exercise the rights given, and
- (3) the procedure for default for a lapse of the franchise.]

* * *

Sec. 49-22. County [Council] to retain [municipal] control.

When the Council grants a franchise under this Article, the [Council] County must [not part with, but must expressly reserve, the right and duty at all times] continue to exercise full [municipal] control [and regulation in respect to all matters connected with the franchise not inconsistent with its terms] over the franchised right-of-way.

Sec. 49-23. Certain private rights not affected.

Nothing in this Article is intended to affect any private right, [including the right of any adjacent property owner held by law in 1910,] except as necessary to comply with this Chapter.

ARTICLE 3. ROAD DESIGN AND CONSTRUCTION CODE.

Sec. 49-25. Complete streets policy and standards.

This Article is intended to guide the planning, design, and construction of transportation facilities in the public right-of-way. Each transportation facility in the County must be planned and designed to:

- (a) maximize the choice, safety, convenience, and mobility of all users, regardless of age, ability, or mode of transportation,
- (b) maintain or expand connectivity for users,
- (c) respect and maintain the [particular character of] master plan recommendations for the community where it is located,
- (d) ensure access, convenience, safety, and investment of resources are equitably applied,

~~[(d)]~~(e) minimize stormwater runoff and otherwise preserve the natural environment, and

430 [(e)](f) facilitate, to the maximum extent possible, the future accommodation
 431 of improved transportation technology elements, such as intelligent
 432 signals, smart parking meters, electric vehicle charging, car- and bicycle-
 433 sharing, and way-finding systems.

434 To achieve these goals, each County road and street must be designed so that
 435 the safety and convenience of all intended users of the roadway system [– including
 436 pedestrians, bicyclists, transit users, automobile drivers, commercial vehicles and
 437 freight haulers, and emergency service vehicles –] is accommodated. [Each road and
 438 street must facilitate multi-modal use and assure that all users can travel safely in the
 439 public right of way. A specified quantity of stormwater must be managed and treated
 440 on-site, in the road or street right-of-way, including through the use of vegetation-based
 441 infiltration techniques.] Complete streets function as a road transportation network
 442 that is safe and convenient for all intended users, regardless of mode. Stormwater
 443 management requirements, including vegetated and structural practices, may be met
 444 on-site and within the public right-of-way. [These context-sensitive] Complete streets
 445 policies must be employed in all phases of publicly or privately funded facility
 446 development, including planning, design, construction, reconstruction, and
 447 streetscaping. [Each transportation project must incorporate complete streets
 448 infrastructure sufficient to promote safe and convenient travel along and across the
 449 right-of-way for all users.]

450 The County Executive must adopt under Method (3) a Complete Streets Design
 451 regulation that provides guidance on the planning, design, and operation of roadways
 452 for all intended users.

453 This Article may be cited as the “Montgomery County Road Design and
 454 Construction Code.”

Sec. 49-26. Definitions.

In this Chapter, except where specified otherwise, the following words and phrases have the meanings indicated:

Bikeway[:] means any area expressly intended for bicycle travel, including associated curbs and gutters and 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, 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.

(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.]

(a) *Bike lane* means a portion of a roadway designated by striping, signing, or pavement markings for the preferential or exclusive use of bicycles, and on which travel by motor vehicles is not allowed.

(b) *Off-street trail* means paths located outside of the road right-of-way that provide two-way travel for people walking, bicycling and using other non-motorized modes. This facility was formerly referred to as a “shared use trail.”

(c) Separated bike lane, also known as a protected bike lane or cycle track means an exclusive bikeway that is physically separated from motor vehicles and distinct from the sidewalk. A separated bike lane may be in a one-way or two-way configuration.

(d) *Shared use roadway*[:] means [A] 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.

[(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.

(f) *Buffered bike lane*: a bikeway separated from a motor vehicle travel lane with an area of striped pavement.]

(e) Sidepath means a paved path that is located parallel to and within the road right-of-way. Sidepaths provide two-way travel routes designated for walking, bicycling, jogging and skating. Sidepaths are separated from motorized traffic by a curb, barrier, or landscape panel. This facility was formerly referred to as a “shared use path”.

Complete streets[:] means streets that are planned, designed, and constructed to enable safe access for all intended users, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities, commercial vehicles, freight haulers, and emergency service vehicles.

Complete streets infrastructure[:] means any design feature that contributes to a safe, convenient, and comfortable travel experience, which may include such features as sidewalks; [shared use paths] sidepaths, bike lanes, and separated bike lanes; bike stations and bike storage facilities; narrow motor vehicle lanes and tight curb radii; street trees, planting strips, and other right-of-way landscaping; curbs and accessible curb ramps; curb extensions, crosswalks, and refuge islands; raised medians; pedestrian and traffic signals, including countdown and accessible signals; signage; streetlighting; street furniture; bicycle parking facilities; stormwater management; public transportation stops and shelters; dedicated transit lanes; and traffic calming devices.

Construction and *constructed* include “reconstruction” and “reconstructed” but not “maintenance,” and include grading, installation of drainage structures, paving, curbs and gutters, curb returns, sidewalks and other areas intended for pedestrian access, bikeways, driveway entrances, guardrails, retaining walls, sodding, and planting.

Curb extension[:] means an area that extends the line of a curb into a parking lane, reducing the width of a street.

Curbside Width[:] means the area beyond each curb necessary for sidewalks, [shared use paths] sidepaths, street trees and other landscaping, streetlights, utilities, and other elements.

Dedication plat[:] means [Any] any plat conforming to law, duly recorded in the County land records, which has the legal effect of dedicating one or more rights-of-way to public use. If the plat was recorded after the Maryland-National Capital Park and Planning Commission was created, and the property is located in the Commission’s jurisdiction, the Commission must have approved the plat.

527 *Design standard*[:] means the standard adopted by regulation under this Article
 528 for each type of road, as defined in Section 49-31, except Freeways and Controlled
 529 Major Highways, which shows typical cross-sections and other dimensions to which
 530 the road must conform.

531 *Director*[:] means [The] the Director of Transportation or the Director of
 532 Permitting Services, as specified, and each Director's designee.

533 *Drainage structure*[:] means [Any] any culvert, bridge, storm drain, storm
 534 sewer, catch basin, canal, channel, inlet, ditch, or subsurface drain, and any other
 535 structure or watercourse designed to convey surface or other waters.

536 *Dual road*[:] means [Any] any road in which the travel directions are separated
 537 by a median.

538 *Forest conservation plan*[:] means [A] a plan for the retention, afforestation, or
 539 reforestation of forest and trees approved under Chapter 22A.

540 *Ground cover*[:] means [Low] low-maintenance, non-invasive, leafy, grassy, or
 541 woody vegetation that covers and holds soil.

542 *Maximum target speed*[:] means the maximum speed at which vehicles should
 543 operate on a thoroughfare in a specific context, consistent with the level or multimodal
 544 activity generated by adjacent land uses, to provide mobility for motor vehicles and a
 545 safe environment for pedestrians and bicyclists.

546 [*Pedestrian walkway*: Any sidewalk, and any other land, way, or path
 547 designated by appropriate signs for a pedestrian route.]

548 *Private road*[:] means [Any] any road [street, highway, avenue, lane, alley, or
 549 viaduct,] or any segment of [any of them] a road, including any [pedestrian walkway]

550 sidewalk, sidepath, or other area intended for pedestrian access adjacent to the private
 551 road that has not been deeded, dedicated or otherwise permanently appropriated to the
 552 public for public use or County maintenance.

553 *Reconstruct and reconstruction* include any change in the width, alignment, or
 554 design of a road or other structural features within or along a roadway [– that is, the
 555 width of the pavement or the area between curbs –] but [do] does not include
 556 resurfacing a road, bikeway, or sidewalk without any change in its width.

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

560 *Rural area* means an area designated as the Rural East and Rural West policy
 561 areas in the Growth and Infrastructure Policy.

562 *Sidewalk[:]* means any portion of the right-of-way for a County road [or street]
 563 that is expressly intended [as a pedestrian walkway] for pedestrians, including
 564 pedestrian ramps.

565 *Specimen tree[:]* means [Any] any tree with a diameter measured at 4.5 feet
 566 above the ground of 30 inches or more, or any tree with 75% or more of the diameter
 567 of the current champion tree of that species, as designated by the County Forest
 568 Conservation District Board.

569 *Speed hump* means a parabolic or flat-top device used to create vertical
 570 deflection along a roadway for traffic calming purposes. These may include wheel
 571 gaps that allow target vehicles to pass through unaffected or flat-top devices may
 572 include crosswalks.

Street tree[:] means [A] a tree that is listed in the design standards as acceptable for planting in a public right-of-way. In a private road right-of-way or easement, a tree listed as acceptable for planting in the Planning Board technical manual for forest conservation.

Subdivision[:] means [The] the division or [partition] assemblage of a lot, tract or parcel of land into [2] one or more lots, plots, sites, tracts, parcels, or other divisions for immediate or future rental, sale, or building development. *Subdivision* includes a resubdivision, but not a division or partition of land for agricultural purposes.

Transitway[:] means a right-of-way for use exclusively by public transit vehicles.

Urban area means areas depicted by Appendix E in the Master Plan of Highways and Transitways as amended, or by any replacement functional, master, or sector plan that defines urban areas or urban road code boundaries.

Sec. 49-27. Applicability of Article.

This Article applies to all roads in the County, except any:

- (a) [State] state road;
- (b) [Federal] federal road;[.]
- (c) [Road] road located in any part under the jurisdiction of the Maryland-National Capital Park and Planning Commission;
- (d) [Private] private road; or
- (e) [Municipally] municipally owned and maintained road.

Nothing in this Article prevents the County from building, and assessing the cost of, any drainage structure, curb or gutter, sidewalk, [shared use path] sidepath, curb return, or sidewalk and driveway entrance, along a [State] state or [Federal] federal road.

Sec. 49-28. Standards and specifications.

- (a) Except as otherwise provided in this Article, the construction of all roads must conform to the standards[, criteria] and specifications in this Article or any regulation adopted under this Article. As used in this Article, “standards” means County design standards including the regulation adopting the Complete streets design, and “specifications” means the most recent [State] state standard specifications for road construction and materials. When no County standards or specifications are applicable, the County will apply the current guidance published by the American Association of State and Highway Transportation Officials (AASHTO) or National Association of City Transportation Officials (NACTO).
- (b) The [Director of Transportation] Executive may set a fee by [method 2] Method (3) regulation for the review of any plan or document submitted under Chapter 50 or this Chapter. Each fee must be based on the costs of reviewing any plan or document and any staff participation in the subdivision process. The Department must provide a copy of each fee regulation to the Planning Board.
- (c) The Department of Transportation must make available to the public, free or at a reasonable cost, an up-to-date copy of all applicable County road design standards and specifications.

Sec. 49-29. Pedestrian [walkways] sidewalks, bikeways, and wheelchair traffic.

(a) Bikeways and [walkways] sidewalks must be constructed when any County road is constructed, reconstructed, or relocated, except [any walkway]:

(1) any sidewalk or sidepath in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone;

(2) any sidewalk or sidepath on any roadway that is classified as [exceptional rustic, rustic, country arterial, or country road] rustic or exceptional rustic;

(3) any sidewalk or sidepath on a [tertiary residential] neighborhood street or neighborhood yield street serving fewer than 75 dwelling units if the Planning Board and Department of Transportation [finds] find that a sidewalk is not expected to be [unnecessary] necessary for pedestrian movement[, or];

(4) any sidewalk if the site is located in an environmentally sensitive area with limits on the amount of impervious surface allowed[.] ;
or

(5) where the Department of Permitting Services finds that a bikeway or sidewalk is infeasible because it will not connect to any destination within the foreseeable future, or the facility qualifies for fee payments in lieu of construction under Section 49-40.

Each bikeway and [walkway] sidewalk must conform to approved capital improvements programs and be consistent with applicable area master plans and transportation plans adopted by the Planning Board.

- (b) To promote the safety of bicycle and wheelchair travel throughout the County, the County Executive must adopt, by Method (3) regulation, standards and specifications to build and maintain ramps at curbed intersections and [storm water] stormwater gratings and other openings along roads and streets, in each case of a design and type that is not a hazard to bicycle and wheelchair traffic and is consistent with Americans with Disabilities Act best practices guidelines published by the United States Department of Justice. These ramps, gratings, and openings must be built and maintained as part of each project under subsection (a).

Sec. 49-30. Traffic [Calming] calming.

- (a) The Director of Transportation must consider installing traffic calming and bicycle- and pedestrian-friendly design features [in] on any [residential] area connector, neighborhood connector, neighborhood street, or neighborhood yield street over 1,000 feet long, [minor arterial, business district street] downtown street, town center street, and industrial street. Traffic calming features include raised crosswalks and raised intersections, traffic [circle] circles, medians, pedestrian refuge islands, chokers, smaller centerline radii, parking cut-outs, chicanes, other forms of horizontal or vertical deflection, and special paving and streetscaping in central business districts or other commercial areas.
- (b) [Speed humps that are 12 feet wide may be built on any principal secondary residential street, secondary residential street, tertiary residential street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on any primary residential street, but must be

spaced at last 500 feet from any other hump and 200 feet from any intersection. Speed humps that are 22 feet wide may be built on a minor arterial, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection. Before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.] Speed hump location and placement:

(1) speed humps that are 12 feet wide may be built on any neighborhood street, neighborhood yield street, or alley, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection;

(2) speed humps that are 22 feet wide may be built on any downtown street, town center street, or shared street, but must be spaced at least 500 feet from any other hump and 200 feet from any intersection;

(3) speed humps that are 22 feet wide may be built on a downtown boulevard, town center boulevard, area connector, neighborhood connector, or industrial street, but must be spaced at least 750 feet from any other hump and 300 feet from any intersection; and

(4) before speed humps are installed in any road, all other requirements specified in applicable regulations must be met.

Sec. 49-31. Classification of roads.

[Each road, except those listed in subsections (m)-(n), must be classified as designated in the applicable master or sector plan. This Section defines the vehicular functions of each road classification.

- 691 (a) A Freeway is a road meant exclusively for through movement of vehicles
692 at a high speed. Access must be limited to grade-separated interchanges.
- 693 (b) A Controlled Major Highway is a road meant exclusively for through
694 movement of vehicles at a lower speed than a Freeway. Access must be
695 limited to grade-separated interchanges or at-grade intersections with
696 public roads.
- 697 (c) A Major Highway is a road meant nearly exclusively for through
698 movement of vehicles at a moderate speed. Access must be primarily
699 from grade-separated interchanges and at-grade intersections with public
700 roads, although driveway access is acceptable in urban and denser
701 suburban settings.
- 702 (d) A Parkway is a road meant exclusively for through movement of vehicles
703 at a moderate speed. Access must be limited to grade-separated
704 interchanges and at-grade intersections. Any truck with more than 4
705 wheels must not use a Parkway, except in an emergency or if the trust is
706 engaged in Parkway maintenance.
- 707 (e) An Arterial is a road meant primarily for through movement of vehicles
708 at a moderate speed, although some access to abutting property is
709 expected.
- 710 (f) A Country Arterial is an Arterial, typically in the County's agricultural
711 reserve.
- 712 (g) A Minor Arterial is a 2-land Arterial meant nearly equally for through
713 movement of vehicles and access to abutting property.

- 714 (h) A Business District Street is a road meant for circulation in commercial
715 and mixed-use zones.
- 716 (i) An Industrial Street is a road meant for circulation in industrial zones.
- 717 (j) A Primary Residential Street is a road meant primarily for circulation in
718 residential zones, although some through traffic is expected.
- 719 (k) A Country Road is a road that has the function of a Primary Residential
720 Street, typically in the County's agricultural reserve.
- 721 (l) A Principal Secondary Residential Street is a Secondary Residential
722 Street meant to carry somewhat more through traffic.
- 723 (m) A Secondary Residential Street is a road meant to provide access between
724 a residential development with fewer than 200 dwelling units and one or
725 more higher classification roads as defined in subsections (b) through (l).
- 726 (n) A Tertiary Residential Street is a road meant to provide direct access to a
727 residential development with 75 or fewer dwelling units. A Tertiary
728 Residential Street must not be built unless the Planning Board allows its
729 use when the Board approves a preliminary subdivision plan or site plan.
- 730 (o) A Rustic Road or an Exceptional Rustic Road means a road classified as
731 either under Article 8.
- 732 (p) An Alley is a right-of-way intended to provide secondary service access
733 to the rear or side of lots or buildings and not intended for transporting
734 through traffic. An alley may be used to provide primary vehicular access
735 if the Planning Board and the Director of Transportation concur that the
736 dimensions and specifications proposed in a project, preliminary

subdivision, or site plan would provide adequate primary vehicular access.]

(a) In this Article and the regulations adopted under it:

(1) A downtown area consists of areas with the highest intensity of development. These areas are:

(A) Bethesda CBD;

(B) Friendship Heights CBD;

(C) Silver Spring CBD;

(D) Wheaton CBD;

(E) White Flint Sector Plan area; and

(F) White Flint 2 Sector Plan area.

(2) A town center area consists of areas with moderate to high development intensity. These areas are:

(A) Burtonsville Town Center;

(B) Clarksburg Town Center;

(C) Damascus Town Center;

(D) Germantown Town Center;

(E) Kensington Town Center;

(F) Olney Town Center; and

(G) All other designated Urban areas that are not downtown areas.

(3) A country area is located within the designated Rural area.

(4) A suburban area is an area with predominantly residential zoning that is not already a downtown, town center, or country area.

(5) These areas may be created, eliminated or modified by functional plans, master plans, or sector plans.

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(6) Roads are included in the area within which they are located. Roads bordering on two areas will be assigned to the area with the greater development intensity.

(b) Each road must be assigned a County classification and a federal classification. Federal classifications are assigned in accordance with the most recent edition of the Federal Highway Administration Highway Functional Classification typologies.

(c) County classifications are:

(1) A Freeway is a road meant exclusively for through movement of vehicles at a high speed. Access must be limited to grade-separated interchanges.

(2) A Controlled Major Highway is a road meant exclusively for through movement of vehicles at a lower speed than a Freeway. Access must be limited to grade-separated interchanges or at-grade intersections with public roads.

(3) A Parkway is a road meant exclusively for through movement of vehicles at a moderate speed. Access must be limited to grade-separated interchanges and at-grade intersections. Any truck with more than four wheels must not use a Parkway, except in an emergency or if the truck is engaged in Parkway maintenance.

(4) A Downtown Boulevard is a road in a downtown area that serves a high volume of vehicles, pedestrians, bicyclists, or transit users. Access to abutting properties is allowed but not preferable. These roads were previously classified as major highways and arterials.

(5) A Downtown Street is a road in a downtown area that serves a large share of pedestrians, bicyclists, or transit users. This road type is

789 meant for circulation in commercial and mixed-use zones. Access
 790 to abutting properties is expected. These roads were previously
 791 classified as business streets.

792 (6) A *Boulevard* is a road that typically connects employment and
 793 entertainment centers, civic, commercial, and institutional land
 794 uses, and may also provide cross-country and regional
 795 connections. Pedestrian, bicycle, and transit users are to be
 796 accommodated. Some access to abutting properties is expected.
 797 These roads were previously classified as major highways and
 798 arterials.

799 (7) A *Town Center Boulevard* is a road in a town center area that
 800 serves a moderate to high volume of vehicles, pedestrians,
 801 bicyclists, or transit users. Access to abutting properties is allowed
 802 but generally not preferable. These roads were previously
 803 classified as major highways and arterials.

804 (8) A *Town Center Street* is a road in a town center area that serves a
 805 larger share of pedestrians, bicyclists, or transit users. This road
 806 type is meant for circulation in commercial and mixed-use zones.
 807 Access to abutting properties is expected. These roads were
 808 previously classified as business streets.

809 (9) An *Area Connector* is a two-lane street in a suburban area that
 810 typically connects employment and entertainment centers, civic,
 811 commercial, and institutional land uses, and may also provide
 812 limited regional connectivity and serve primary circulation in
 813 residential zones. These roads were previously classified as minor
 814 arterials.

- (10) A Neighborhood Connector is a street in a suburban area providing primary circulation in residential zones and may also enable traffic to pass through a neighborhood. These streets were previously classified as primary residential streets.
- (11) A Neighborhood Street is a street that provides internal circulation within suburban areas. Access to abutting properties is expected. These streets were previously classified as secondary and tertiary residential streets.
- (12) A Neighborhood Yield Street is a Neighborhood Street that is designed as a bi-directional one-lane street.
- (13) An Industrial Street is a road meant for circulation in areas consisting predominantly of industrial zones.
- (14) A Country Connector is a road in a country area that was previously classified as major highways, arterials, or country arterials.
- (15) A Country Road is a low intensity road in a country area.
- (16) An Alley is a right-of-way intended to provide secondary access to the rear or side of lots or buildings and not intended for transporting through traffic. An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a project, preliminary subdivision, or site plan would provide adequate primary vehicular access. An Alley is a Residential Alley if serving only residential zones, or a Commercial Alley if serving any non-residential zones.

(17) A Rustic Road or an Exceptional Rustic Road means a road classified as such under Article 8.

(18) A Residential Shared Street or Commercial Shared Street is a street designed to create a shared traffic environment where pedestrians, bicyclists, and other non-motorized traffic may comfortably occupy the same space as motor vehicle traffic. These streets prioritize pedestrian and bicycle movement by slowing vehicular speeds and communicating clearly through design features that motorists must yield to all other users. A Shared Street is a Residential Shared Street if serving only residential zones, or a Commercial Shared Street is serving any non-residential zones.

(d) County classifications are assigned as follows until the roads are re-designated by functional plans, master plans, or sector plans. The number of lanes is defined as the number of through lanes for motor vehicles and is tallied based on the number of planned lanes for that road, or the number of existing lanes if not specified by any functional plan, master plan, or sector plan.

(1) Freeways retain their classifications as Freeways.

(2) Controlled Major Highways retain their classifications as Controlled Major Highways.

(3) Parkways retain their classifications as Parkways.

(4) Major highways:

(A) Major highways located in a downtown area are classified as Downtown Boulevards.

- 865 (B) Major Highways located in a town center area are classified
 866 as Town Center Boulevards.
- 867 (C) Two-lane Major Highways located in a country area are
 868 classified as Country Connectors.
- 869 (D) Two-lane Major Highways located in a suburban area are
 870 classified as Area Connectors.
- 871 (E) All Major Highways not addressed by (A) through (D) are
 872 classified as Boulevards.
- 873 (5) Arterials:
- 874 (A) Arterials with four or more lanes located in a downtown area
 875 are classified as Downtown Boulevards.
- 876 (B) Arterials with fewer than four lanes located in a downtown
 877 area are classified as Downtown Streets.
- 878 (C) Arterials with more than two lanes located in a town center
 879 area are classified as Town Center Boulevards.
- 880 (D) Arterials with two lanes located in a town center area are
 881 classified as Town Center Streets.
- 882 (E) Arterials located within a country area are classified as
 883 Country Connectors.
- 884 (F) Two-lane Arterials located in a suburban area are classified
 885 as Area Connectors.
- 886 (G) All Arterials not addressed by (A) through (F) are classified
 887 as Boulevards.
- 888 (6) Minor Arterials:
- 889 (A) Minor Arterials with four or more lanes located in a
 890 downtown area are classified as Downtown Boulevards.

- 891 (B) Minor Arterials with fewer than four lanes located in a
 892 downtown area are classified as Downtown Streets.
- 893 (C) Minor Arterials with more than two lanes located in a town
 894 center area are classified as Town Center Boulevards.
- 895 (D) Minor Arterials with two lanes located in a town center area
 896 are classified as Town Center Streets.
- 897 (E) Minor Arterials located within a country area are classified
 898 as Country Connectors.
- 899 (F) All Minor Arterials not addressed by (A) through (E) are
 900 classified as Area Connectors.
- 901 (7) Business District Streets:
- 902 (A) Business District Streets with four or more lanes located in
 903 a downtown area are classified as Downtown Boulevards.
- 904 (B) Business District Streets with fewer than four lanes located
 905 in a downtown area are classified as Downtown Streets.
- 906 (C) Business District Streets with more than two lanes that are
 907 not located in a downtown area are classified as Town
 908 Center Boulevards.
- 909 (D) Business District Streets with two lanes that are not located
 910 in a downtown area are classified as Town Center Streets.
- 911 (8) Industrial Streets retain their classification as Industrial Streets.
- 912 (9) Primary Residential Streets:
- 913 (A) Primary Residential Streets located in a country area are
 914 classified as Country Connectors.
- 915 (B) Primary Residential Streets not located in a country area are
 916 classified as Neighborhood Connectors.

- 917 (10) Secondary Residential Streets are classified as Neighborhood
 918 Streets.
- 919 (11) Tertiary Residential Streets are classified as Neighborhood Streets.
- 920 (12) Country Arterials are classified as Country Connectors.
- 921 (13) Country Roads retain their classifications as Country Roads.
- 922 (14) Shared Streets with entirely residential zoning along its frontage
 923 are classified as a Residential Shared Street.
- 924 (15) Shared Streets with any non-residential zoning along its frontage
 925 are classified as a Commercial Shared Street.
- 926 (16) Alleys retain their classifications as Alleys.
- 927 (17) Rustic Roads retain their classifications as Rustic Roads.
- 928 (18) Exceptional Rustic Roads retain their classifications as
 929 Exceptional Rustic Roads.
- 930 (19) Transitions along continuous roadways:
- 931 (A) If a Downtown road type changes classification to or from
 932 a non-Downtown road type: the Downtown classification
 933 will extend to the next master planned cross-street, not to
 934 exceed 500 feet beyond the limits of the downtown area.
- 935 (B) If a Town Center road type changes classification to or from
 936 a non-Downtown and non-Town Center road type: the
 937 Town Center classification will extend to the next master
 938 planned cross-street, not to exceed 500 feet beyond the
 939 limits of the town center area.
- 940 (C) If a Downtown Boulevard, Town Center Boulevard, or
 941 Boulevard change classification to or from any other type:
 942 the Downtown Boulevard, Town Center Boulevard, or

Boulevard classification will extend to the next master planned cross-street, not to exceed 500 feet beyond the initial transition point.

(D) The transition areas noted in (A) through (C) are not additive; if the roadway meets multiple transition criteria the transition area will remain to the next master planned cross-street, not to exceed 500 feet from the nearest of either the limits of the downtown or town center area, or the initial transition point.

(20) If the Department of Transportation determines that the criteria under (d)(1) through (d)(19) are not suitable for a particular road, the Department may determine that a more context-sensitive classification or transition length applies in lieu of the default classifications.

Sec. 49-32. Design standards for types of roads.

* * *

[(c) In this Article and the standards adopted under it:

- (1) an ‘urban’ road is a road segment in or abutting a Metro Station Policy Area, Town Center Policy Area, or other urban area expressly identified in a Council resolution;
- (2) a ‘rural’ road is a road segment located in a rural policy area as defined in the County Growth Policy; and
- (3) a ‘suburban’ road is a road segment located elsewhere in the County.]

967 [(d)](c) The minimum right-of-way for a road may be specified in the most
 968 recent applicable functional plan, master plan, or sector plan for the area
 969 where the road is located. Minimum rights-of-way include continuous
 970 features along a typical section, and account for parking, drainage and
 971 stormwater management, spot conditions such as auxiliary lanes or transit
 972 stations, or infrastructure at intersections such as signal equipment and
 973 protected intersections. If a minimum right-of-way for a particular road
 974 is not specified [n] in a functional plan, master plan, or sector plan, the
 975 minimum right-of-way must be:

- 976 [(1) 80 feet for a Business District Street or Industrial Street;
- 977 (2) 100 feet for a Primary Residential Street with a median;
- 978 (3) 70 feet for a Primary Residential Street without a median;
- 979 (4) 60 feet for a Principal Secondary Residential Street or Secondary
- 980 Residential Street;
- 981 (5) 50 feet for a standard Tertiary Residential Street;
- 982 (6) 27 feet, 4 inches for a reduced-width Tertiary Residential Street
- 983 with two-way traffic;
- 984 (7) 21 feet, 4 inches for a reduced-width Tertiary Residential Street
- 985 with one-way traffic; and
- 986 (8) 20 feet for an Alley.]

- 987 (1) 80 feet for a Downtown Street;
- 988 (2) 80 feet for a Town Center Street;
- 989 (3) 70 feet for an Area Connector;
- 990 (4) 70 feet for a Neighborhood Connector;
- 991 (5) 60 feet for a Neighborhood Street;

- 992 (6) 50 feet for a Neighborhood Yield Street;
 993 (7) 80 feet for an Industrial Street;
 994 (8) 74 feet for a Country Connector;
 995 (9) 70 feet for a Country Road;
 996 (10) 20 feet for an Alley serving any non-residential zoning;
 997 (11) 16 feet for an Alley serving only residential zoning;
 998 (12) 40 feet for a Commercial Shared Street;
 999 (13) 40 feet for a Residential Shared Street.

1000 [(e)](d) Grass shoulders must be load bearing at any specific location designated
 1001 by the Director of Permitting Services after consulting the Fire Chief and
 1002 Director of Transportation.

1003 [(f)](e) Unless otherwise specified in this Article, each grading, drainage
 1004 structure, paving, shoulder, landscaping, and traffic control must be
 1005 installed as provided in the latest applicable County design standards,
 1006 storm drain criteria, and specification. Unless extenuating circumstances
 1007 would result in a safety hazard, when a road is resurfaced the road must
 1008 also be restriped to meet any applicable lane width standard and may
 1009 include bike lanes where appropriate.

1010 [(g) Each through travel or turning lane on an urban road must be no wider
 1011 than 10 feet, except that a single travel lane adjacent to a parking lane
 1012 must be no wider than 11 feet and a through travel or turning lane abutting
 1013 an outside curb must be no wider than 11 feet, including the gutter pan.
 1014 Each parking lane on an urban road must be no wider than 8 feet,
 1015 including the gutter pan. The standards in this subsection do not apply if,
 1016 for a road improvement required as a result of approving a subdivision or
 1017 site plan, the Executive or the Executive's designee concludes that

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1018 applying a specific standard at a specific site would significantly impair
1019 public safety.]

1020 [(h)](f) The curb radius at the corner of each intersection of two [urban] roads
1021 in Downtown or Town Center areas must not exceed 15 feet. The curb
1022 radius at the corner of intersections where all intersecting streets are Area
1023 Connectors, Neighborhood Connectors, Neighborhood Streets, or
1024 Neighborhood Yield Streets must not exceed 10 feet. Exceptions to these
1025 requirements may be allowed as follows [except where]:

1026 [(1) there is only one receiving lane;]

1027 [(2)](1) there is a curb extension [is located]; [or]

1028 (2) a default 25-foot radius is required where at least one street is an
1029 Industrial Street;

1030 (3) a larger radius is needed to serve the design vehicle and control
1031 vehicle with consideration of the allowable encroachment defined
1032 by the Complete Streets Design regulation; or

1033 [(3)](4) [for] a road improvement required [as a result of approving] by
1034 a subdivision or site plan [, the Executive or the Executive's
1035 designee concludes that applying this standard at a specific site]
1036 would significantly impair public safety.

1037 [(i)](g) Each pedestrian refuge must be at least 6 feet wide. A pedestrian refuge
1038 must be located at each intersection approach along [on] a divided
1039 highway with 6 or more through travel lanes.

1040 [(j)](h) Unless otherwise specified in a functional plan, master plan, sector plan,
1041 or the approved capital improvements program, the maximum target
1042 speed for a road [in an urban area is 25 mph.] shall be:

- 1043 (1) 25 mph for a Downtown Boulevard;
- 1044 (2) 20 mph for a Downtown Street;
- 1045 (3) 35 mph for a Boulevard, except 25 MPH if in an Urban Area;
- 1046 (4) 30 mph for a Town Center Boulevard, except 25 MPH if in an
- 1047 Urban Area;
- 1048 (5) 25 mph for a Town Center Street;
- 1049 (6) 25 mph for an Area Connector;
- 1050 (7) 25 mph for a Neighborhood Connector;
- 1051 (8) 20 mph for a Neighborhood Street;
- 1052 (9) 20 mph for a Neighborhood Yield Street;
- 1053 (10) 25 mph for an Industrial Street;
- 1054 (11) 40 mph for a Country Connector;
- 1055 (12) between 20 to 35 mph for a Country Road;
- 1056 (13) between 45 to 55 mph for a Major Highway;
- 1057 (14) case-by-case determinations for Alleys, Shared Streets, Rustic
- 1058 Roads, and Exceptional Rustic Roads;

1059 **Sec. 49-33. Road construction and reconstruction requirements.**

1060 * * *

- 1061 [(c) Cul-de-sacs or turnarounds are required if the paving of a road ends other
- 1062 than at a paved road intersection. Each turnaround or cul-de-sac must be

graded, paved, and include appropriate drainage structures and temporary curbs, if the Department of Permitting Services so requires.]

~~[(d)]~~(c) If a preliminary drainage study indicates that a minimum right-of-way or storm drain easement width required in this Article is inadequate to properly drain a particular road, the Department of Permitting Services may require any additional right-of-way or storm drain easement necessary for proper drainage. The Department must notify the permittee of any added right-of-way before a dedication plat is approved by the Planning Board (or equivalent body in any municipality with land use authority) and recorded in the County land records, and must notify the permittee of any added easement when it approves a right-of-way permit.

(1) If a lot or lots front on a public road, the permittee must provide sufficient drainage easements to allow for the safe conveyance of stormwater from the public right-of-way to either an approved outfall or an approved public structure.

~~[(e)]~~(d) (1) If a lot or lots front on a public road, the permittee must [install] construct sidewalks, master-planned bikeways, ramps, curbs, and gutters, except [any sidewalk]:

(A) any sidewalk or sidepath in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural [zone] area;

(B) any sidewalk or sidepath on any roadway that is classified as [exceptional rustic, rustic, country arterial, or country road] rustic or exceptional rustic;

1087 (C) any sidewalk or sidepath on a [tertiary residential]
 1088 neighborhood street or neighborhood yield street serving
 1089 fewer than 75 dwelling units [, or in an environmentally
 1090 sensitive area with limits on the amount of impervious
 1091 surface allowed,] if [in either case] the Planning Board and
 1092 Department of Transportation [finds] find that a sidewalk is
 1093 not expected to be [unnecessary] necessary for pedestrian
 1094 movement; [or]

1095 (D) any sidewalk if the site is located in an environmentally
 1096 sensitive area with limits on the amount of impervious
 1097 surface allowed if the Department of Transportation find
 1098 that a sidewalk is not expected to be necessary for pedestrian
 1099 movement; or

1100 [(D)](E) any sidewalk or sidepath on a [secondary or tertiary
 1101 residential] neighborhood street, neighborhood yield street,
 1102 or service drive where the Department of Permitting
 1103 Services finds that a sidewalk or sidepath is infeasible, will
 1104 not connect [potentially] to other sidewalk segments within
 1105 the foreseeable future, or qualifies for fee payments in lieu
 1106 of construction under Section 49-40.

1107 (2) However, the Planning Board may require the applicant to install
 1108 sidewalks, bikeways, ramps, curbs, and gutters if the Board finds,
 1109 as a condition of approval of a preliminary subdivision plan or site
 1110 plan, that sidewalks, [bikeway connections] bikeways, ramps,
 1111 curbs, and gutters at that location are necessary to allow access:

1112 (A) to [a] an existing or planned sidewalk or bikeway;

(B) to a bus or other public transit stop;

(C) to an amenity or public facility that will be used by occupants of the site or subdivision; or

(D) by persons with disabilities.

Before the Planning Board approves any requirement under this paragraph, the Board must give the Departments of Permitting Services and Transportation a reasonable opportunity to comment on the proposed requirement.

[(f)](e) The construction of half roads or any road of less than the width required by this Article is prohibited except as permitted in Section 49-40. [However, construction] Construction of such portions of roads is permitted if the dedicated portion of the road established by a dedication plat and recorded in the County land records before August 15, 1950 is wide enough to permit the grading and construction of paving [18] 20 feet wide with curbs, gutters, and sidewalks required for the type of road.

[(g)](f) A road must not be constructed unless it connects with an existing public road at one end. A road must not be constructed short of an intersection unless it connects with an existing public road or the dedication of the right-of-way ends short of an intersection. If any road construction ends at or goes through an intersection, the intersection must be completed. If a road ends at other than an intersection or a point of connection with an existing road, [turnarounds or cul-de-sacs] a turnaround such as a cul-de-sac must be provided. Each turnaround must be graded, paved, and include appropriate drainage structures and temporary curbs if required by the Department of Permitting Services.

1138 [(h)](g) If drainage structures are required for any particular class of road, the
 1139 Planning Board must require the applicant to install or construct drainage
 1140 structures that the Board finds are necessary or appropriate, after
 1141 reviewing a preliminary drainage study approved by the Department of
 1142 Transportation, in accordance with applicable design standards and
 1143 specifications.

1144 [(i)](h) Driveway entrances to individual lots must be required if the Planning
 1145 Board finds that off-street parking facilities are necessary and practicable.

1146 [(j)](i) *Street trees.*

1147 (1) On public road rights-of-way, street trees must be planted in
 1148 accordance with design standards of the Department of
 1149 Transportation. On private road rights-of-way and easements,
 1150 street trees must be planted in accordance with the technical
 1151 manual adopted by the Planning Board under Chapter 22A.

1152 (2) The Department of Permitting Services, the Department of
 1153 Transportation, and the staff of the Planning Board should
 1154 coordinate the specific location and species of street tree plantings
 1155 to promote compatibility of the plantings with road function and
 1156 safety, signage, maintenance, appropriate visual buffering,
 1157 utilities, other public or private improvements, and aesthetic
 1158 considerations related to streetscape design.

1159 [(k)](j) *Ground cover.*

1160 (1) A property owner may plant and maintain ground cover in a public
 1161 right-of-way adjacent to the owner's property if the owner:

1162 (A) complies with [guidelines issued under paragraph (3)]

1163 County regulations;

- 1164 (B) maintains the ground cover to prevent any obstruction of the
 1165 public right-of-way prohibited under Section 49-10; and
 1166 (C) holds the County harmless for any damage to the ground
 1167 cover, and any damage or injury caused by the ground
 1168 cover.

1169 However, ground cover in a public right-of-way adjacent to the
 1170 owner's property must not be planted where it will reduce public
 1171 safety or impede travel.

- 1172 (2) In this subsection, property owner or owner includes each person
 1173 with a legal interest in the property and any successor to that
 1174 person's interest.

- 1175 [(3) The Director of Transportation, after consulting the Directors of
 1176 Environmental Protection and Permitting Services, must issue
 1177 guidelines that allow and encourage a property owner to place and
 1178 maintain ground cover in the public right-of-way adjacent to the
 1179 owner's property. The guidelines must encourage use of ground
 1180 cover that is environmentally sensitive and promotes conservation
 1181 of natural resources and more sustainable landscaping, including
 1182 plant species that:

- 1183 (A) require reduced or no mowing, fertilizing, or other
 1184 maintenance;
 1185 (B) are drought tolerant and require little watering at any time;
 1186 (C) do not inhibit growth of nearby trees; and
 1187 (D) include non-turf grasses.]

1188 (3) The County Executive must adopt Method (3) regulations that
 1189 define the design and maintenance standards applicable to this
 1190 Section.

1191 (4) Except as provided in paragraph (1), this subsection does not
 1192 impair the County's right to enter, maintain, occupy, or otherwise
 1193 control any public right- of-way for any purpose.

1194 [(1)](k) *Curbs and gutters.*

1195 * * *

1196 **Sec. 49-34. Construction by County.**

1197 (a) The County must not construct any road unless:

1198 (1) the County has previously acquired the right-of-way for the road,
 1199 or the right-of-way has been dedicated to public use by appropriate
 1200 recording in the County land records; and

1201 (2) the cost of the road will be charged against the benefitted property
 1202 in according with Sections 49-51 to 49-62 and subsection [(b)] (c)
 1203 of this Section.

1204 * * *

1205 (e) The County Executive may authorize the construction of [shared use
 1206 paths] sidepaths or sidewalks to serve general community needs.
 1207 Whenever a sidewalk or [shared use path] sidepath is built in a right-of-
 1208 way where there is no pavement or other road construction, building the
 1209 sidewalk or [shared use path] sidepath does not mean that the County is
 1210 responsible for maintaining any part of the right-of-way except the
 1211 sidewalk or [shared use path] sidepath.

1212 **Sec. 49-35. Right-of-way permit.**

- 1213 (a) (1) A [person must not construct any road, sidewalk, shared use path,
1214 curb and gutter, driveway, or drainage structure; begin any such
1215 construction (including clearing, grading, and tree cutting); or
1216 perform any tree work on any roadside tree (including removing a
1217 stump on a County right-of-way), without a permit] permit is
1218 required from the Director of Permitting Services for any work
1219 within the public right-of-way. Any permit issued for roadside tree
1220 work must comply with Section 49-36A. In this Article, “roadside
1221 tree” means any plant that has a woody stem or trunk which grows
1222 all, or in part, in the right-of-way of any County public road.
- 1223 (2) In this Section and Sections 49-36, 49-36A, and 49-37, unless
1224 otherwise specified, Director refers to the Director of Permitting
1225 Services and Department refers to the Department of Permitting
1226 Services.
- 1227 (3) [A person must apply for a permit on] Permit applicants must use
1228 forms prescribed by the Director, submit detailed plans and
1229 specifications, and include locations and record plats approved by
1230 the Department and the Planning Board.
- 1231 (4) If the proposed activity requires a sediment control permit, the
1232 Department must issue the permit before any activity occurs under
1233 a permit issued under this subsection. The State Highway
1234 Administration must approve any action under its jurisdiction
1235 before the Director may approve the permit.

- 1236 (5) As a requirement to issue a permit under this Section, the Director
 1237 may require the applicant to designate and bond a haul route for
 1238 construction materials, as described in Section 49-8.
- 1239 (b) The Director must collect a fee, set by Method 3 regulation, for each
 1240 right-of-way permit application. However, the Director must not collect
 1241 a fee for any permit to:
- 1242 (1) remove or prune a tree that endangers a person or property;
 1243 (2) remove a stump in the right-of-way; [or]
 1244 (3) plant a tree; or
 1245 [(3)][4] install a sign identifying a geographic area in the right-of-way if:
- 1246 (A) the primary applicant is an unincorporated or non-profit
 1247 civic or homeowners' organization that is either:
- 1248 (i) listed on the Planning Board's most recent list of
 1249 civic and homeowners associations; or
 1250 (ii) exempt from federal income taxes and shows that its
 1251 annual revenue during its most recent fiscal year did
 1252 not exceed an amount set by a regulation;
- 1253 (B) in a homeowners' association, maintenance responsibility
 1254 of all common areas has been transferred from the
 1255 developer; and
- 1256 (C) the proposed sign would be smaller than a maximum size
 1257 set by regulation.
- 1258 (c) Before an applicant begins any road, sidewalk, sidepath, bikeway, curb
 1259 and gutter, driveway, retaining wall, steps, or drainage project, on a road
 1260 or within the boundaries of a dedication to public use, the applicant for a
 1261 permit to undertake any such project must pay to the County an inspection

and engineering fee set by the County Executive by [method] Method (3) regulation.

(d) If any such project is solely a grading project, the applicant must pay an inspection and engineering fee to the County if Department staff does the engineering work on the project and an inspection fee if the applicant submits the engineering work.

(e) Any violation of this Section is a Class A violation.

(f) The Director must refund half the fees required by this Section to the applicant if a permit is rejected or withdrawn before construction begins. If an applicant proposes to undertake a project using materials, standards, or specifications superior to those required under this Article, the fees charged must be computed on the estimated cost of the project as if it met those requirements.

(g) A person, including any utility corporation, must not cut [a road] within the right-of-way to install, replace, or maintain or connect any underground gas, electric power, or telephone line, or any other underground infrastructure, without a permit from the Director. The Director must supervise all backfilling and repaving of utility trenches to assure that the permittee complies with all applicable specifications. The permittee must restore the right-of-way to its prior condition.

* * *

Sec. 49-36. Permit conditions and procedures.

Each permit issued under Section 49-35 must be subject to the following conditions[, which the permit must specify]:

* * *

1287 **Sec. 49-36A. Roadside tree work.**

1288 * * *

1289 (b) *Applicability; exceptions.*

1290 (1) A person [(including a government agency)] may receive a right-
 1291 of-way permit to perform tree work on a roadside tree if the person:

1292 * * *

1293 **Sec. 49-37. Street and road bonds.**

1294 * * *

1295 (d) (1) If the Director finds a violation of an applicable law or regulation,
 1296 or a default in the performance of any term or condition of the
 1297 permit or accepted security, the Director must give written notice
 1298 of the violation or default to the principal and to the surety of the
 1299 accepted security. The notice must specify the work to be done,
 1300 the estimated cost of the work, and the period of time the Director
 1301 finds reasonably necessary to complete the work.

1302 (2) If a cash bond has been posted, the Director must give notice of
 1303 default to the principal; and if compliance is not [acheived]
 1304 achieved within the time specified, the Director may, without delay
 1305 and without further notice or proceedings, use the cash deposited,
 1306 or any portion of the deposit, to cause the required work to be
 1307 performed by contract or otherwise in the Director's discretion.
 1308 After any default in the performance of any term or condition of
 1309 the permit or accepted security, the County, the surety, and any

1310 person employed or engaged on their behalf may enter the site to
 1311 complete the required work.

1312 * * *

1313 **Sec. 49-38. Acceptance of roads.**

1314 * * *

1315 (b) Any action by the County to accept a road must be in writing and fully
 1316 identify the portion accepted. Any accepted road must conform to [the
 1317 standards and specifications of] this Chapter and all other applicable laws
 1318 in force at the time of acceptance.

1319 * * *

1320 **Sec. 49-39. Pre-acceptance review by County.**

1321 * * *

1322 (b) After completion and final inspection of a road, the County must either
 1323 accept the road, if the Director of Permitting Services finds that its
 1324 construction has met all requirements of this Article, and release the bond,
 1325 or the Director must reject the road by written notice to the permittee and
 1326 surety, where an acceptable security was posted, specifying the reasons
 1327 for rejection by reference to the particular requirement which has been
 1328 violated, and allow a specified reasonable time for the permittee or surety
 1329 to comply with all applicable [requiements] requirements.

1330 * * *

1331 **Sec. 49-40. Waivers of requirements of Article.**

(a) The Director of Permitting Services may waive any requirement of this Article for sidewalks, bikeways, rights-of-way widths, grade percentages, full-width grading, and the construction of both roadways of a dual road, or any combination of them, as allowed in this Section, for any road constructed by the County or a permittee.

(b) The Director must apply the following standards for granting or denying waivers:

(1) *Sidewalks and Sidepaths.*

(A) *Waiver authority.* The Director may waive any requirement, subject to (B), to install sidewalks or sidepaths if:

- (i) the lots abutting the right-of-way are unimproved;
- (ii) the street was lawfully graded before August 15, 1950, and the terrain is so steep and uneven that grading for sidewalks or sidepaths cannot be done except at excessive cost, or
- (iii) houses or buildings abutting the right-of-way which were constructed before August 15, 1950, are so situated, and the property upon which those houses or buildings are located is so graded, that the construction of sidewalks or sidepaths is undesirable.

(B) *Waivers not allowed.* [Notwithstanding the preceding subparagraph, the] The Director [may] must deny a waiver if:

- (i) the street involved is [a Primary Residential Street] an Area Connector, Neighborhood Connector,

1358 Industrial Street, [Business District Street, Minor
 1359 Arterial or Arterial, Major Highway] Downtown
 1360 Street, Town Center Street, Downtown Boulevard,
 1361 Town Center Boulevard, Boulevard, or Controlled
 1362 Major Highway; or

1363 (ii) the required sidewalks or bikeways are necessary or
 1364 desirable to provide safe access for pedestrians and/or
 1365 bicyclists.

1366 (C) *Waiver and fee payment.* As an alternative to building a
 1367 sidewalk or bikeway on an existing or proposed street, the
 1368 Director may allow an applicant to pay a fee if the applicant
 1369 shows that building a sidewalk or bikeway as required
 1370 would cause extreme hardship. The sidewalk or bikeway
 1371 that would be waived must not connect to another existing
 1372 or proposed sidewalk, [shared use path] bikeway, bus stop,
 1373 school, or other public [faciity] facility. The fee must equal
 1374 the full cost to build the sidewalk or bikeway, including the
 1375 design and supervision costs. This fee must be paid, any
 1376 necessary right-of-way must be dedicated, and any
 1377 necessary perpetual easement must be recorded before the
 1378 Director issues any road construction permit for the
 1379 proposed public street. The revenue from these fees must be
 1380 assigned to a capital account for sidewalk or bikeway
 1381 construction and may be spent as appropriated by the
 1382 County Council.

1383 * * *

(4) *Full-width grading.* The Director may waive or reduce any requirement for full-width grading if:

* * *

(C) for a [Secondary Residential or Tertiary Residential] Neighborhood Street or Neighborhood Yield Street, the applicant proposes to extend an existing paved road which ends short of an intersection, the right-of-way containing the existing paved road is not graded to its full width and the waiver does not apply beyond the intersection.

* * *

ARTICLE 4. ACQUISITION OF LAND.

Sec. 49-45. Authority to acquire land for transportation purposes.

The County may buy land which is needed in connection with:

(a) the opening of any new road, [shared use path] bikeway, or sidewalk,

* * *

Sec. 49-50. Optional method of condemnation of land for streets or roads.

As authorized by Section 40A of Article III of the Maryland Constitution, the County may acquire any land or interest in land required for a right-of-way for a County road or street by using the following procedure:

* * *

(b) (1) Promptly after being appointed, the broker or appraiser must estimate the fair market value of the property or interest and submit a written report to the County.

(2) The County then may be petition, naming the owner and all persons of record whose interest in the property would be taken, pay to the Circuit Court the amount estimated by the broker or appraiser to be the fair market value of the property, and record a copy of the resolution of taking in the County land records. A copy of the resolution must be attached to the petition and filed with the Circuit Court. A copy of the petition and resolution must be [served on] sent to each person named in the petition.

* * *

ARTICLE 5. COUNTY ROADS – AUTHORITY AND FUNDING.

Sec. 49-51. [Definitions] Reserved.

[As used in this Article:

Construction means construction or reconstruction (but not maintenance), and includes grading, installation of drainage structures, and paving.

Road: includes any road, street, highway, avenue, lane, alley, bridge, shared use path, sidewalk, viaduct, and any related storm drain and stormwater management facility.]

* * *

Sec. 49-53. Public hearing; notice.

* * *

1428 (e) The Director need not hold a hearing under subsection (d) before a
 1429 sidewalk or [shared use path] sidepath is constructed if:

1430 * * *

1431 **Sec. 49-57. Roads partly in unincorporated area and partly in city or town.**

1432 (a) *Building roads.*

1433 (1) If a road, bridge, storm drain, sidewalk, [shared use path] sidepath,
 1434 transitway, or other transportation facility is located partly in the
 1435 unincorporated area of the [county] County and partly in a
 1436 municipality or special taxing district that is authorized by law to
 1437 build or maintain that part of the facility that is located in the
 1438 municipality, either the County or the municipality or special
 1439 taxing district may improve the entire facility according to
 1440 applicable County laws or any law or regulation that applies in the
 1441 municipality or special taxing district, respectively, as if the facility
 1442 were completely located in the unincorporated area of the [county]
 1443 County or in the municipality or special taxing district.

1444 * * *

1445 (3) The County may build or improve a road, bridge, storm drain,
 1446 sidewalk, [shared use path] sidepath, bikeway, transitway, or other
 1447 transportation facility which it is authorized by law to construct
 1448 and maintain, including when the facility is located partly or
 1449 entirely in a municipality or special taxing district. Before taking
 1450 any action under this paragraph, the Executive must consult each
 1451 affected municipality.

* * *

ARTICLE 6. ABANDONMENT AND CLOSING OF RIGHTS-OF-WAY.

Sec. 49-62. Abandonment authority; scope of Article; procedures.

(a) *Authority.* The County Council, by adopting a resolution, may close to public use or abandon the County's right to use any right-of-way. As used in this Article, *right-of-way* means any road, [street, alley, crosswalk, pedestrian walkway, shared use path] sidewalk, bikeway, crosswalk, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists. This Article applies to all rights-of-way except as provided in subsection (j) and State road rights-of-way, and may apply to a State road right-of-way if the appropriate State agency expressly consents. Before the Council adopts a resolution under this Article, the procedures in this Article must be followed.

* * *

(h) *Agencies.* The government agencies and other parties from which the Executive must solicit a response are:

(1) the Department of Transportation;

(2) the Department of Permitting Services;

~~[(2)]~~(3) the Maryland-National Capital Park and Planning Commission;

~~[(3)]~~(4) the Washington Suburban Sanitary Commission, if any part of the right-of-way is located in the Washington Suburban Sanitary District;

1475 ~~[(4)]~~(5) each public utility authorized by the Public Service Commission
 1476 to operate in the area and which has any overhead or underground
 1477 facilities in the vicinity;

1478 ~~[(5)]~~(6) the governing body of each incorporated municipality or special
 1479 taxing district in which any of the right-of-way is located;

1480 ~~[(6)]~~(7) [The] the Police Department;

1481 ~~[(7)]~~(8) the County Fire and Rescue Service; and

1482 ~~[(8)]~~(9) [Any] any grantee of a franchise under Article 2, if the franchise
 1483 authorizes the grantee to install or use any facility in, over, or under
 1484 the affected right-of-way.

1485 (i) *Temporary closure.* This Article does not apply to any temporary closure
 1486 required by a construction traffic control plan if the closure does not last
 1487 longer than 12 months. If special circumstances require that a temporary
 1488 closure last longer than 12 months, the Director of Transportation must
 1489 apply to the Council for approval to extend the closure [for a specified
 1490 period that does not exceed 24 months]. The Council, by resolution, may
 1491 approve an extended temporary closure under this subsection without
 1492 following the procedures in this Article.

1493 * * *

1494 **ARTICLE 8. RUSTIC ROADS PROGRAM.**

1495 * * *

1496 **Sec. 49-77. Definitions.**

1497 In this Article, the following terms have the meanings indicated:

1498 *Committee* means the Rustic Roads Advisory Committee.

1499 *Exceptional rustic road* means an existing public road or road segment which is
1500 so classified under Section 49-78.

1501 [*Master Plan of Highways* means the Master Plan of Highways Within
1502 Montgomery County, an amendment to the General Plan for the Physical
1503 Development of the Maryland-Washington Regional District.]

1504 *Public utility* means any private company or public agency that is regulated as
1505 a public utility under state law, or otherwise provides water, sewer, electric, gas,
1506 telephone, or cable service (as defined in Chapter 8A) in the County.

1507 *Rustic road* means an existing public road or road segment which is so classified
1508 under Section 49-78.

1509 **Sec. 49-78. Rustic road classification and reclassification.**

1510 (a) *Classification.* The County Council may classify, reclassify, or revoke
1511 the classification of an existing public road or road segment as a rustic
1512 road or an exceptional rustic road by approving an amendment to the
1513 [Master Plan of Highways] functional plan and the relevant area [Master
1514 Plan] master plan.

1515 * * *

1516 *Approved:*

1517

1518

Gabe Albornoz, President, County Council

Date

1519 *Approved:*

1520

Marc Elrich, County Executive

Date

1521 *This is a correct copy of Council action.*

1522

Judy K. Rupp, Clerk of the Council

Date

Approved as to form and legality

Clifford L. Royalty

Clifford L. Royalty (Jun 28, 2022 17:50 EDT)

Office of the County Attorney