

Bill No. 8-00
Concerning: Streets and Roads - Ground
Cover In Public Rights-of-Way
Revised: July 26, 2000 Draft No. 7
Introduced: March 7, 2000
Enacted: August 1, 2000
Executive: August 10, 2000
Effective: On the earlier of the effective
date of regulations issued
under Section 49-35(k)(3) of
the Code, as amended by
this Act; or December 1, 2000
Sunset Date: None
Ch. 23, Laws of Mont. Co. 2000

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Ewing and Krahnke

AN ACT to:

- (1) allow and encourage property owners to place alternative, conservation-promoting plants ~~[[and other ground cover materials on their property]]~~ in the public right-of-way adjacent to their property; and
- (2) generally amend County law regarding placement of objects in the public right-of-way.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Sections 49-17, 49-31, and 49-35

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:

1 **Section 1. Sections 49-17, 49-31, and 49-35 of the Code ~~[[is]]~~ are**
2 **amended as follows:**

3 **49-17. Obstruction of public rights-of-way.**

4 ~~[[a)]~~ Except as provided in Section 49-18, in the public right-of-way,
5 including any sidewalk in the public right-of-way, a person must not:

6 ~~[(a)]~~

7 ~~[[1)]~~

8 (a) do any reconstruction or maintenance work; or

9 ~~[(b)]~~

10 ~~[[2)]~~

11 (b) erect or place any structure, fence, post, or other object in the right-of-
12 way, except:

13 ~~[(1)]~~

14 ~~[[A)]~~

15 (1) rural delivery mail boxes;

16 ~~[(2)]~~

17 ~~[[B)]~~

18 (2) individual residential newspaper boxes;

19 ~~[[C)]~~

20 (3) ground cover placed and maintained ~~[[according to regulations~~
21 ~~issued]]~~ under ~~[[subsection (b)]]~~ Section 49-35(k);

22 ~~[(3)]~~

23 ~~[[D)]~~

24 (4) under written agreement with the Director of Department of
25 Permitting Services; or

26 ~~[(4)]~~

27 ~~[[E)]~~

1 (5) as otherwise permitted by law.

2 Any object placed in the public right-of-way under this subsection must
 3 not unreasonably impede use of a sidewalk or other right-of-way by
 4 pedestrians or persons in wheelchairs, or impede or endanger
 5 automobiles or other vehicles.

6 [[(b) (1) The Director of Permitting Services, after consulting the Director
 7 of Environmental Protection and the Director of Public Works
 8 and Transportation, must issue regulations that allow and
 9 encourage a property owner to place and maintain certain types
 10 of ground cover on the owner’s land in the public right-of-way.
 11 The regulations must encourage use of ground cover that is
 12 environmentally sensitive, promotes conservation of natural
 13 resources and more sustainable landscaping, including materials
 14 and plant species that:

15 (A) require reduced or no mowing, fertilizing, or other
 16 maintenance;

17 (B) are drought tolerant and require little watering at any time;

18 (C) do not inhibit growth of nearby trees; and

19 (D) include non-turf grasses.

20 (2) The regulations described in paragraph (1) may refer to a list of
 21 approved groundcover materials or plant species, issued by the
 22 Director of Permitting Services under method (3) after consulting
 23 the Director of Environmental Protection and the Director of
 24 Public Works and Transportation.]]

25 **49-31. Definitions.**

26 For purposes of this Article, the following words and phrases have the
 27 meanings indicated:

* * *

Ground cover: Dense masses of low growing, low maintenance, leafy, grassy, or floral vegetation that cover soil. Unless specifically authorized by regulation, ground cover does not include bushes, shrubs, or any plant identified as a weed under County law.

* * *

49-35. General provisions.

* * *

(k) 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 regulations issued under paragraph (3);

(B) maintains the ground cover to prevent any obstruction of the public right-of-way prohibited under Section 49-17; and

(C) holds the County harmless for any damage to the ground cover, and any damage or injury caused by the ground cover.

(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, after consulting the Director of Environmental Protection and the Director of Permitting Services, must issue regulations 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 regulations 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.

(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.

[[k]]

(l)

Sec. 2. Effective Date.

This Act takes effect on the earlier of:

- (1) the effective date of regulations issued under Section [[49-17(b)]] 49-35(k)(3) of the Code, as amended by this Act; or
- (2) [[September]] December 1, 2000.

Between [[September]] December 1, 2000, and any later date when regulations first take effect, the **ground cover** referred to in Section [[49-17(a)(2)(C)]] 49-35(k), as amended by this Act, may include any [[material or]] plant species placed or maintained by the **property owner** that does not visually or physically obstruct the public right-of-way or otherwise impede vehicle or pedestrian traffic.

1 *Approved:*

2 /S/ 8/3/00

Michael L. Subin, President, County Council Date

3 *Approved:*

4 /S/ 8/10/00

Douglas M. Duncan, County Executive Date

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

6 /S/ 8/14/00

Mary A. Edgar, CMC, Clerk of the Council Date