

Chapter 42A. Ridesharing and Transportation Management. [Note]

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NOTE: No revisions made to Article I at this time.

Article II. ~~**Article II.**~~ **Transportation Demand Management.**

Editor's note—Article II. “Transportation System Management” was renamed “Transportation Demand Management” and §§ 42A-10 through 42A-20 were repealed by [2002 L.M.C., ch. 34](#), § 1. Secs. 42A-10, 42A-12, 42A-13, 42A-14, 42A-15, 42A-16, 42A-17, 42A-18, 42A-19, and 42A-20 were derived from 1988 L.M.C., ch. 18, § 1; Sec. 42A-11 was derived from 1988 L.M.C., ch. 18, and § 1; 1996 L.M.C., ch. 4, § 1.

Sec. 42A-10. — Sec. 42A-20. Reserved.

Editor's note—Article III. “Transportation Management in Metro Station Areas” was repealed by [2002 L.M.C., ch. 34](#), § 1.

Sec. 42A-20A. Reserved.

Editor's note—Sec. 42A-20A was repealed by [2002 L.M.C., ch. 34](#), § 1.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

Sec. 42A-21. Definitions.

In this Article, unless the context indicates otherwise:

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

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

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

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

Date of Final Occupancy means the earlier of either the date on which 80 percent of a building or project has been leased or sold, or the date two years following issuance of Final Use and Occupancy Permit by the Montgomery County Fire Department.

Department means the Department of Transportation.

Director means the Director of the Department of Transportation or the Director's designee.

District means a transportation management district created under this Article.

Employee means a person hired by an employer, including a part-time or seasonal worker.

Employer means any public or private business or government entity, including the County, employing 25 or more employees and having a permanent place of business in a district. ~~The maximum number of employees on the largest shift working in a district determines the size of the employer.~~ Employer does not include:

- (1) a contractor, business, or government entity with no permanent place of business in a district;
- (2) a home-based business;
- (3) a business with no employees housed at that work site;
- (4) any business with no permanent workplace or location; or
- (5) any government agency not required by law to follow County regulations.

~~*Growth Subdivision Staging Policy* means the most recently recent Policy adopted Growth Policy under Section 33A-15.~~

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

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

~~*Resident means an adult domiciled in the relevant area.*~~

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

Telework means a work arrangement where a manager directs or permits an employee to perform usual job duties away from the central workplace in accordance with established performance expectations and agency-approved or agreed-upon terms.

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

Transportation management organization means a public, nonprofit private, or public-private firm, corporation, or instrumentality created or contracted to manage or coordinate transportation demand management programs.

~~*Vanpool means a van occupied by at least 8 employees traveling together.*~~

~~*Vanpool means a vehicle that has at least the capacity for 6 or more passengers (excluding the driver) who occupy at least 50 percent of the seats at any point during the trip and 80 percent of the mileage use is for transporting employees between their residences and place of employment.*~~

Workplace means the place of employment, base of operations, or predominant location of an employee. (1993 L.M.C., ch. 47, § 1; 1996 L.M.C., ch. 4, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2; [2008 L.M.C., ch. 5](#), § 1.)

Editor's note—[2008 L.M.C., ch. 5](#), § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

Sec. 42A-22. Findings and purposes.

(a) New economic development is important to stimulate the local economy. Focusing new development in high transit-service areas is an important County land use and economic development objective.

(b) Limited transportation infrastructure, traffic congestion, [inadequate access to transit, bicycle and pedestrian access facilities](#), and safety issues impede the County's land use and economic development objectives.

(c) Transportation demand management, in conjunction with adequate transportation facility review, planned capital improvement projects, and parking and traffic control measures, will:

(1) help provide sufficient transportation capacity to achieve County land use objectives and permit further economic development;

(2) reduce the demand for road capacity, and promote traffic safety, [and access to transit, and bicycle](#) and pedestrian [access facilities](#); and

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

(d) Improved traffic levels and air quality, and a reduction in ambient noise levels will help create attractive and convenient places to live, work, visit, and conduct business.

(e) Transportation demand management will equitably allocate responsibility for reducing single-occupancy vehicle trips among government, developers, employers, property owners, and the public.

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

(1) ~~—(1) make optimum use of existing transportation infrastructure;~~

~~(2)~~ increase transportation capacity;

~~(23)~~ reduce existing and future levels of traffic congestion;

~~(34)~~ reduce air ~~and noise~~ pollution; and

~~(45)~~ promote traffic safety [in concert with the promotion of transit](#), and pedestrian [and bicycle safety and](#) access.

(g) Transportation demand management will substantially advance public policy objectives. Adoption of this Article is in the best interest of the public health, safety, and general

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

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

(a) The County Council by resolution may create a transportation management district in: an area where transportation review applies under the Subdivision Staging Policy. Several Subdivision Staging Policy areas may be combined into one or more Countywide districts, even if not contiguous.

~~—(1) a Metro station policy area, which may include adjacent areas served by the same transportation network; or~~

~~—(2) an area where transportation review applies under the Growth Policy.~~

(b) The Department may take actions necessary to achieve effective transportation demand management in each district, on its own or by contract with any employer, transportation management organization, or other party, including through adoption of Executive Regulations under Method 2 and by:

(1) ~~—(1)~~ regulating or limiting public parking, by regulation adopted under method (2);

(2) prohibiting bundling of parking in new developments approved after January 1, 2019, within certain areas, whereby a prospective purchaser or tenant is required to commit to a minimum number of parking spaces as a precondition to buying or leasing space or renewing a lease term in any commercial or residential building. Any parking spaces physically integrated with an individual leasable or sales unit may be exempt from this requirement.

(2) monitoring and assessing traffic patterns and pedestrian access and safety;

~~(2)(3)~~ ~~—(3)~~ adopting traffic and parking control measures;

~~—(4)~~

(4) providing transit, microtransit, demand-responsive transit, shuttles and/or circulator services

(5) implementing approved transportation-related capital projects;

~~(56)~~ promoting or implementing transit and ridesharing incentives;

~~(67)~~ promoting regional cooperation between the County and other government agencies;

~~(78)~~ creating cooperative County-private sector programs to increase ridesharing and transit use; and

~~(89)~~ conducting surveys, studies, and statistical analysis to determine the effectiveness of traffic mitigation plans and employer efforts.

(c) In each transportation management district, sole source contracts may be signed with, or funds granted to, one or more transportation management organizations to carry out

transportation demand management programs that the Department could otherwise carry out, under Chapter 11B.

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

(e) Each district may have a Transportation Management District Advisory Committee if the Executive by regulation decides a Committee is necessary to carry out this Article or if the Council creates a Committee by resolution. The Executive or Council may designate any existing advisory body appointed by the Executive and confirmed by the Council to serve as a Transportation Management District Advisory Committee. The Executive must appoint and the Council must confirm members of any Advisory Committee. The County must not compensate members of an Advisory Committee for their services. Advisory Committee members, not otherwise public employees as defined in Chapter 19A, are not subject to the financial disclosure provisions of that Chapter. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2; [2006 L.M.C., ch. 1](#), § 1.)

Sec. 42A-24. Traffic mitigation plans.

—(a

Sec. 42A-24. Traffic mitigation plans. (a) All employers within a district must inform the Department of the number of full-time and part-time employees at each worksite within that district on a biannual basis, by filing a report with the Department on a schedule to be set by the Department.

(b) If an employer is subject to this Section, and if the Council by resolution or in the GrowthSubdivision Staging Policy has approved the use of traffic mitigation plans in a given district, the Director must notify the employer by letter that the employer must submit a traffic mitigation plan meeting the requirements of this Section.

(~~b~~c) An employer who employs 25 or morethe below number of employees in a district at any time within one year before receiving notice under subsection (a) must submit a traffic mitigation plan to the Director. Employers within a district where the employee-based Non-Auto Driver Mode Share (NADMS) goal is 25 percent or higher must submit a Traffic Mitigation Plan if they have 25 or more employees. Employers not within such TMDs must submit a Traffic Mitigation Plan if they employ the following numbers of employees in the policy area categories noted below:

—(~~e~~Red Areas = 100 employees; Orange Areas = 200 employees; Yellow Areas = 300 employees.

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

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

~~—(e)—~~ (f) Consolidated Traffic mitigation plans

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

(2) A consolidated plan must be designed so that the action it requires satisfies this Section for employers covered by the plan.

~~—(f)—~~ (g) Traffic mitigation plans for non-residential building owners

(1) The Director may require an owner of a nonresidential building in a district to submit a traffic mitigation plan if:

(A) the Director finds that a plan is necessary to achieve the purpose of this Article ~~because of the owner's control of parking or common space or for similar reasons~~; and

(B) the Director notifies the owner of the building under subsection (a).

(2) As specified in the notice, the owner's plan may cover all or some employers in the building. A plan submitted under this subsection may be in addition to one an individual employer must submit.

(3) After receiving notice under this Section, an owner must submit a traffic mitigation plan that meets the requirements applicable to an employer, as determined by MCDOT.

~~—(g)—~~ (h) Traffic mitigation plans for multi-unit residential buildings

(1) The Director may require an owner of a residential building or complex with at least 100 dwelling units, including a common ownership community as defined in Chapter 10B, in a district to submit a traffic mitigation plan if:

(A) the Director finds that a plan is necessary to achieve the purpose of this Article ~~because of the owner's control of parking or common space or for similar reasons~~; and

(B) the Director notifies the owner of the building under subsection (a).

(2) After receiving notice under this Section, an owner of a residential building must submit a traffic mitigation plan that meets ~~thesimilar~~ requirements to those applicable to an employer, as determined by MCDOT.

(~~hi~~) The Director must offer to help employers and owners to prepare traffic mitigation plans.

(~~ij~~) The Director must:

(1) decide if each proposed plan meets the requirements of this Section; and

(2) help the employer or owner revise a plan which does not meet the requirements.

(jk) The Director may require an employer or owner to resubmit a plan that is ~~not consistent with~~adequate to achieve any ~~commuting~~NADMS goals set in the ~~Growth~~Subdivision Staging Policy. The Director must not require an employer to submit a plan that meets the requirements of this Section more than once every 2 years. An employer or owner must submit a report on transportation demand management measures used to implement a traffic mitigation plan to the transportation management organization based on a schedule the Director sets. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34, § 1](#); [2004 L.M.C., ch. 2, § 2](#).)

Editor's note—See County Attorney Opinion dated [8/24/07](#) regarding the elements that dictate when an entity must pay the transportation management fee.

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

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

~~—(a)—~~

(a)  Sec. 42A-25. Transportation Demand Management Programs

(a) Applicability. Any proposed subdivision ~~or~~, optional method development or other building or development project in a district ~~must be subject to a traffic mitigation agreement, other than single family detached construction,~~ is required to have a TDM program if the following criteria are met:

- a. receives a Final Use and Occupancy Permit after January 1, 2019
- b. is larger than the minimum sizes designated for each Subdivision Staging Policy Area group shown below,
- a.c. the Planning Board and the Director jointly decide, under standards adopted by the Council for the adequacy of public transportation as indicated in the Subdivision Staging Policy, that more transportation facilities and, or transportation demand management measures are necessary to meet any commuting goals set ~~in the Growth Policy~~ by the Department by Executive Regulation.

Minimum sizes for projects subject to TDM programs (expressed in Gross Square Feet or “GSF”):

- 1) Red Areas: 25,000 GSF of private development
- 2) Orange Areas: 50,000 GSF of private development
- 3) Yellow Areas: 75,000 GSF of private development

(b) Levels of TDM Programs. There are three levels of TDM Programs: Basic, Action and Results. The level of TDM Program to which a building or project is subject is dependent upon the size of the building or project and the Subdivision Staging Policy Area in which it is located. The table below depicts the required program levels for each size project within each Policy Area, and the type of Traffic Mitigation Agreement (TMAg) required to implement that program.

<u>Subdivision Staging Policy Area</u>	<u>No Requirements</u>	<u>TDM Basic Program (No TMAg)</u>	<u>TDM Action Program (“Action-Based TMAg”)</u>	<u>TDM Results Program (“Results-Based TMAg”)</u>
<u>Red Areas</u>	<u><25K GSF</u>	<u>25K – 100K GSF</u>	<u>Not Applicable</u>	<u>>100+K GSF</u>
<u>Orange Areas</u>	<u><50K GSF</u>	<u>50K – 100K GSF</u>	<u>>100-200K GSF</u>	<u>>200+K GSF</u>
<u>Yellow Areas</u>	<u><75K GSF</u>	<u>75K – 100K GSF</u>	<u>>100K GSF</u>	<u>Not required – May be used upon Applicant request</u>

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The components of each level of TDM Program are described in the Executive Regulation adopted to implement these provisions. Each program must have the below elements.

(1) A TDM Basic Program must include the following measures:

- a. Cooperation. Participate with and assist the Department's activities to achieve the traffic mitigation and Non-Auto Driver Mode Share goals established for that area; there are no project-based goals associated with a TDM Basic Program.
- b. Appointment of a Transportation Coordinator. A Coordinator must be designated by the building or project owner to have certain responsibilities.
- c. Access to the building/project – Provide space on-site by prior arrangement for purposes of promoting TDM
- d. Notification. Each owner of a building/project subject to this section is required to notify the Department in writing within 30 days of the designated Coordinator's contact information and any subsequent change in that designation or contact information.

(2) A TDM Action Program described above must include the following measures:

All of the measures included in the TDM Basic Program plus the following:

- a. Commitment to TDM Strategies. Each TDM Action Program will include certain required strategies along with optional strategies selected from the "Menu of TDM Strategies" included in the Executive Regulations [Exec Reg. #].
- b. Minimum Financial Commitment by the Owner/Applicant to fund the program at an adequate level.
- c. Self-Monitoring. A program of self-monitoring will be implemented to determine if the TDM program is achieving the goals for that project.
- d. Biennial Report provided to the County.
- e. Addition and/or Substitution of Strategies. In the event the strategies initially selected from the menu by the owner/developer do not result in the project contributing toward continued progress toward achievement of the TMD goals the Department may require revisions in the project's program from the Menu of TDM Strategies.
- f. Penalties if the Project does not contribute toward achievement of TMD goals.
- g. Rewards for continued contribution toward achievement of TMD goals.

(3) A TDM Results Program must include the following measures:

All of the measures included in the Action TDM Program plus the following:

- a. Independent Monitoring. Provision for outside monitoring to determine whether the project is meeting its goals.
- b. Addition and/or Substitution of Strategies from the Menu of TDM Strategies.
- c. Penalties. In the event the strategies selected by the owner/developer do not result in achievement of the project goals at a certain point following occupancy, required additional strategies, increased contributions and other penalties will be determined by the Department in concert with the Planning Board.
- d. Rewards for continued achievement of Project goals.

Sec. 42A-26. Traffic Mitigation Agreements

(a) Applicability.

- 1) Grandfathering of existing agreements. All agreements executed under this Chapter before January 1, 2019, remain in effect.
- 2) New Agreements. Any new building or development project approved after January 1, 2019, that is larger than the minimum sizes designated for each Subdivision Staging Policy Area group shown in Section 42A-25 must be subject to a traffic mitigation agreement (TMAg) according to the requirements of this Section.
- 3) Projects in process of construction: Any building or development project with an existing approval and signed agreement, but which has not yet commenced construction, and which is larger than the minimum sizes designated for each Subdivision Staging Policy Area group shown in Section 42A-25, may opt to be considered for re-approval of their subdivision application under the revised provisions of this Section.

(b) Components

A traffic mitigation agreement must specify transportation demand management measures that the applicant or a responsible party must carry out, in compliance with the TDM Program Level required, as outlined in 42A-25 (b). The measures must be ~~calculated~~ selected to ensure that ~~public~~ transportation infrastructure and related programs will be adequate to meet commuting goals set ~~in~~ by the ~~Annual Growth Policy~~ Department.

Specific components will consist of required and developer- or owner-selected Optional Strategies from the Menu of TDM Strategies.

(c) Elements – A traffic mitigation agreement may require:

- (1) naming a transportation coordinator;
 - (2) limits on parking spaces;
 - (3) peak period or single-occupancy vehicle parking charges;
 - (4) preferential parking for carpools and vanpools;
 - (5) subsidies for employees not using single-occupancy vehicles;
 - (6) financial or other participation in building or operating on- or off-site transportation facilities or systems;
 - (7) providing space on a periodic basis for marketing and promotional activities of the district;
 - (8) designating permanent areas in prominent locations to display information on commuting options; or
 - (9) other transportation demand management measures.
- (d) Process – A traffic mitigation agreement must be:
- (1) agreed to by the applicant, the Department, and the Planning Board;
 - (2) made an express condition of any approval for subdivision under Chapter 50 or optional method development under Chapter 59;
 - (3) subject to all other review and approval requirements of Chapter 50 and Chapter 59; and
 - (4) recorded in the County’s land records.
- (e) Additional Requirements – A traffic mitigation agreement may:
- (1) require adequate financial security, including bonds, letters of credit, or similar guarantees;
 - (2) bind future tenants of the development; and
 - (3) specify liquidated damages, specific performance, or other contractual remedies, as appropriate.

—(f)— Enforcement

The Department must enforce the terms of each traffic mitigation agreement. This does not limit the Planning Board's authority to revoke or otherwise enforce any approvals for subdivision under Chapter 50 or optional method development under Chapter 59. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

Editor's note—See County Attorney Opinion dated [8/24/07](#) regarding the elements that dictate when an entity must pay the transportation management fee.

 **Sec. 42A-27. Commuter survey and related data collection.**

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

(a) The Director, after consulting the appropriate Advisory Committee, must ~~schedule an annual-conduct a~~ commuter survey, ~~unless or obtain through another appropriate mechanism, data on commuting by employees and residents within a defined area. Such data must be obtained on a schedule determined by~~ the Director ~~determines that a less frequent plan is appropriate.~~

(b) The Director, ~~after consulting in consultation with~~ the appropriate Advisory Committee, must prepare a survey or other data collection mechanism that generates information to:

(1) create an accurate data base of employee and resident commuting patterns in the district; and

(2) monitor progress toward reaching any commuting goals set in the Growth Policy ~~Subdivision Staging Policy, Master Plans, Executive Regulations, or other adopted policies.~~

(c) The Department must distribute the survey to, or collect data through other Department-approved mechanisms from, employers; building owners or managers; tenant, condominium and homeowners associations; and others required to conduct the survey or to participate in other ways in the data collection process, based on a schedule the Director sets. Each notified employer, building owner or manager, or other entity must distribute, collect, and return the completed surveys, or provide or facilitate provision of, the required data through other Department-approved mechanisms, to the transportation management organization or the Department within ~~45 days after receiving the surveys.~~ the period of time determined by the Department.

(d) ~~An employer~~ Any entity required to participate in the commuting survey or to participate in data collection through another mechanism, must make a good faith effort to generate survey responses ~~from employees or other data from their target population~~ with the objective of achieving at least ~~an 80a~~ 50 percent compliance rate. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1; [2004 L.M.C., ch. 2](#), § 2.)

 **Sec. 42A-28. Executive report on TMDs.**

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

(a) By December 1 of each even-numbered year, the Director must submit to the appropriate ~~Advisory~~ Committee and the Planning Board a report on transportation demand management in each operating district. The report should include:

- (1) employee commuting patterns by employer or project; residential commuting patterns by building or project; other commuting or travel patterns as appropriate;
- (2) auto occupancy rates by employer, residential unit or other appropriate measures;
- (3) level of service measurements for each major intersection in the policy area and selected critical intersections outside the area;
- (4) parking supply and demand;
- (5) status of road or intersection improvements, signal automation, improved bicycle and pedestrian access and safety, and other traffic modifications in or near the policy areadistrict;
- (6) transit use and availability;
- (7) carpool and vanpool use;
- (8) bicycle and bikeshare use; and
- (89) the source and use of any funds received under this Article.

(b) By March 1 of each odd-numbered year, the Executive must forward each report to the Council. The Executive must note any area of disagreement between the Director and an Advisory Committee.

~~(a)(b)~~ ~~_____~~ ~~-(e)-~~ If any commuting goals set in the GrowthSubdivision Staging Policy are not met 48 years after a district is created or after this provision is adopted, the Director must recommend corrective action to the Executive. This action may include mandatoryadditional mitigation measures. If the Executive agrees that such action is necessary, the Executive should propose appropriate legislation or adopt appropriate regulations as authorized by law. (1993 L.M.C., ch. 47, § 1; 2002 L.M.C., ch. 34, § 1; 2004 L.M.C., ch. 2, § 2.)

Sec. 42A- Sec. 42A-2829. Regulations.

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

Sec. 42A-30. Transportation Sec. 42A-29. TransportationDemand Management Fee.

(a) *Authority.*

(1) The Council may by resolution adopted under Section 2-57A set the transportation demand management fee that the Department must annually charge, under the Alternative Review Procedures in the Growth Policy, an applicant for subdivision ~~or~~, optional method development approval in a district or building permit, and each successor in interest.

(2) ~~If the resolution creating a district authorizes the~~ The Department is authorized to charge a transportation demand management fee to any of the following persons; when the Council ~~may~~, by resolution adopted under Section 2-57A, ~~sets~~ sets the fee that the Department must charge:

(A) an applicant for subdivision ~~or~~, optional method development or building permit in ~~the~~ district who is ~~not~~ subject to a requirement for transportation demand management ~~fee under the Alternative Review Procedures in the Growth Policy;~~ and ~~each successor in interest;~~ and

(B) an owner of existing commercial, industrial and/or multi-unit residential developed property ~~in the, including commercial parking facilities, in a district who is subject to a requirement for transportation demand management or is located within a~~ district.

(b) *Use of revenue.* The revenue generated by a transportation demand management fee must be used in the transportation management district in which the development or property subject to the fee is located to cover the cost of:

(1) administering ~~the district~~ TDM strategies and coordinating with projects and occupants (including employees and residents) within that district or Policy Area, including review and monitoring of traffic mitigation plans under Section 42A-24 and traffic mitigation agreements under Section 42A-25; and

(2) any program implemented under Section 42A-23(b), including any vehicle or other equipment necessary to carry out the program.

(c) *Rate.* The rate of a transportation demand management fee must be set to produce not more than an amount of revenue substantially equal to the:

(1) portion of the cost of administering TDM in the district, including the review and monitoring of traffic mitigation plans under Section 42A-24 and traffic mitigation agreements under Section 42A-25, reasonably attributable to the transportation effects of the development or property subject to the fee; and

(2) portion of the cost of any program implemented under Section 42A-23(b), including any vehicle or other equipment necessary to carry out the program, reasonably attributable to the transportation effects of the development or property subject to the fee.

(d) *Method.* A transportation demand management fee may be assessed on:

(1) the gross floor area, the maximum or actual number of employees, or the average number of customers, visitors, or patients, in a nonresidential building;

(2) the number of dwelling units, number of residents, or the gross floor area, in a residential building;

(3) the number of parking spaces associated with a building; or

(4) any other measurement reasonably related to transportation use by occupants of, employees located in, or visitors to a particular development or property, including commercial parking facilities, as determined by the Department.

(e) *Variation.* The transportation management fee and the basis on which it is assessed may vary from one district or Policy Area to another and one building category or land use category

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

Editor’s note—See County Attorney Opinion dated [8/24/07](#) regarding the elements that dictate when an entity must pay the transportation management fee. See County Attorney Opinion dated [4/26/05](#) discussing the Council’s role in setting certain transportation fees and the Executive’s role in setting transportation management fees.

Sec. 42A-31. Enforcement.

Sec. 42A-30. Enforcement.

—The Department must enforce this Article. An employer, owner, building or project manager or other responsible party that does not submit a traffic mitigation plan or annual report, or provide survey data, within 30 days after a second notice has committed a class C violation.

An owner or other responsible party who does not submit a traffic mitigation ~~plan~~agreement within 30 days ~~after a second notice~~prior to receipt of any above-ground building permit has committed a class C violation.

A party to a traffic mitigation agreement under Section 42A-26 who does not comply with the agreement within 30 days after notice has committed a class A violation.

Any party required to submit reports on numbers of employees, transportation demand management programs, level of Non-Auto Driver Mode Share, progress toward goals, survey results or other TDM-related provisions or measurements who does not file such reports on a timely basis has committed a class C violation; any party who falsifies any such data or reports has committed a class A violation. (1993 L.M.C., ch. 47, § 1; [2002 L.M.C., ch. 34](#), § 1.)

Notes

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

