

Resolution No:	20-858
Introduced:	June 24, 2025
Adopted:	June 24, 2025

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Resolution to disapprove Executive Regulation #8-21, Transportation Demand Management

Background

1. On December 14, 2023, the County Executive transmitted Executive Regulation 8-21, Transportation Demand Management, as a Method (2) regulation per Section 2A-15 of the County Code. Executive Regulations under Method (2) automatically take effect if the Council does not act to approve or disapprove within 60 calendar days after the Council receives the regulation.
2. On February 5, 2024, the Council's Transportation and Environment (T&E) Committee reviewed Executive Regulation 8-21, citing several issues in need of further review and recommending (3-0) that the Council extend the deadline to approve the regulation from its original February 14 deadline under Method (2).
3. On February 13, 2024, the Council voted to approve Resolution 20-402, which extended the deadline for action on Executive Regulation 8-21 to September 30, 2024.
4. On September 10, 2024, the Council voted to approve Resolution 20-601, which extended the deadline for action on Executive Regulation 8-21 to February 28, 2025.
5. On February 4, 2025, the Council voted to approve Resolution 20-714, which extended the deadline for action on Executive Regulation 8-21 to July 31, 2025.

Action

The County Council for Montgomery County approves the following resolution:

The Council disapproves Executive Regulation 8-21, attached, as transmitted to the Council by the Executive on December 14, 2023.

This is a correct copy of Council action.



Sara R. Tenenbaum
Clerk of the Council



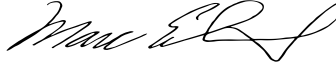
OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

December 14, 2023

TO: Andrew Friedson, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Executive Regulation 8-21, Transportation Demand Management

I am transmitting Executive Regulation (ER) 8-21, Transportation Demand Management Guidelines, which implements provisions of Chapter 42A, Article II of the County Code. The Regulation establishes standards for achieving the Non-Auto Driver Mode Share goals (NADMS) established for portions of the County, the Transportation Demand Management (TDM) Plan requirements for employers, and the TDM Plan requirements for new development projects and existing buildings in Transportation Management Districts as determined by the project size and location relative to the County's designated Growth and Infrastructure Policy Areas.

ER 8-21 was advertised in the September 2021 Montgomery County Register with a comment deadline of September 30, 2021. A large number of comments were received, which were compiled into a table and are available for review in a table at the following link: [Table-of-Comments-Exec-Reg_8-21.pdf](#). The table includes the names and contact information for those submitting comments, the County's response to those comments, and any changes to the regulation that resulted from each comment. A number of the comments pertained to provisions in Chapter 42A, Article II, of the Code, rather than to the proposed Executive Regulation. Some of those Code provisions had existed prior to Council adoption of new elements of the Code but had not come to the attention of those commenting. Other comments focused on new Code provisions Council adopted to facilitate implementation of the County's efforts to expand the use of TDM to reduce traffic impacts and address environmental and climate change goals while streamlining the process for development

approvals. Still other comments suggested changes to the proposed regulation to clarify or revise the approach.

Extensive changes were made to the proposed regulation as a result of comments received which caused the delay in preparing the final proposal. Those changes are highlighted in the Table of Comments and were primarily to clarify or make more specific the basis for the County Department of Transportation's approach or decisions on new project-based TDM Plans, to provide information on how achievement of goals for projects will be determined, and to allow for flexibility in the amount of additional funding a project must provide for their on-site program if they are not achieving their goals after a certain amount of time.

A Fiscal Impact Statement for the regulation is included in this package.

If you have any questions or need additional information, please contact Maricela Cordova, Acting Deputy Director for Policy, Department of Transportation at Maricela.Cordova@montgomerycountymd.gov or 240-777-7235.

ME:cc

Enclosure

cc: Christopher Conklin, Director, Department of Transportation
Maricela Cordova, Acting Deputy Director for Policy, Department of Transportation
Sandra L. Brecher, Chief, Commuter Services Section, Department of Transportation



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Montgomery County Regulation on:

TRANSPORTATION DEMAND MANAGEMENT

DEPARTMENT OF TRANSPORTATION

Issued by: County Executive

Regulation No. 8-21

Authority: Montgomery County Code, 2014, as amended, Chapter 42A, Article II

Council Review: Method (2) under Code Section 2A-15

Register Vol. 38, Issue 9

Comment Deadline: September 30, 2021

Effective Date: _____

Sunset Date: None

Summary: The regulation implements the County's Transportation Demand Management provisions of Chapter 42A, Article II of the County Code. The regulation establishes standards for achieving the Non-Auto Driver Mode Share goals (NADMS) adopted for portions of the County; the Transportation Demand Management (TDM) Plan requirements for employers; and the TDM Plan requirements for new development projects and existing buildings in Transportation Management Districts (TMDs), as determined by the project size and location relative to the County's designated Growth and Infrastructure Policy Areas.

Address: Montgomery County Department of Transportation
Director's Office
Executive Office Building
101 Monroe Street, 10th Floor
Rockville, MD 20850

Staff Contact: Sandra L. Brecher, Chief, Commuter Services Section
(240) 777-8380



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Background:

The Montgomery County 2020-2024 Growth and Infrastructure Policy (formerly Subdivision Staging Policy) divides the County into regions based upon the existing or planned level of transportation infrastructure and the resulting transportation capacity of each area. Chapter 42A – Article II Transportation Demand Management was amended by Bill 36-18 adopted by County Council on December 3, 2019, and effective March 13, 2020. The amended Article uses the color-coded Policy Areas and Transportation Management Districts (TMDs) as a basis for actions designed to achieve commuting goals for each of these areas. Commuting goals primarily seek to reduce the number of peak period employee commutes made by single occupant vehicles.

Authority:

Pursuant to Chapter 42A, Article II of the Montgomery County Code, the County Executive hereby promulgates this Executive Regulation for the purpose of implementing Transportation Demand Management (“TDM”) to achieve the commuting goals established for each Policy Area and Transportation Management District (“District” or “TMD”) in the County. The County Department of Transportation (“the Department” or “MCDOT”) is the County department primarily responsible for implementation of TDM in the County.

Definitions:

The terms are defined in Chapter 42A of the Montgomery County Code.

Section I. Commuting Goals

A. Establishment of Overall Commuting Goals for Geographic Areas

Commuting goals for designated areas within the County are based upon analyses conducted during master planning processes, which recommend the amount and type of new development permitted over the planning period, traffic generation, transportation infrastructure to be provided, and the amount of non-auto commuting required to limit traffic congestion and produce acceptable traffic flows. All commuting goals have been confirmed or established by the County Council through the Growth and Infrastructure Policy. All Non-Auto Driver Mode Share (“NADMS”) goals are also shown on the MCDOT website.



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Commuting goals are primarily expressed as a percentage of NADMS, but can also include other measures, such as percentage of transit use and average auto-occupancy rates, all of which are calculated based on conditions during the peak period. Commuting goals may be established for employees commuting into a given Policy Area or TMD ("NADMS-E"); for residents living in that area who are commuting to jobs elsewhere ("NADMS-R"); or for both employees and residents, sometimes referenced as a "blended" NADMS.

B. Timeframe for Achievement of Commuting Goals

If no deadline has been established for the achievement of commuting goals for a Policy Area, TMD, Master Plan or Sector Plan area by County Council or Planning Board action, the Department will require the goal for that area to be achieved by the end of the planning period for that Master Plan or Sector Plan. Where no planning period has been identified, the Department will require the goals to be achieved by the end of a 20-year period following adoption of the applicable Master Plan or Sector Plan.

C. Individual Project Goals for New Projects

The Department may determine that certain projects, by their use and location, contribute disproportionately to the achievement of a commuting goal, while other projects may not contribute proportionately to the achievement of a goal. For example, within a given Master Plan area, projects with certain types of land uses located close to a Metrorail station might be expected to produce a higher percentage of NADMS than a project with a different land use in that same location, or a project with the same type of land use located several blocks away.

Based on these analyses, the Department may determine that a higher or lower level of achievement of NADMS goals than that established for that District, or in the relevant Growth and Infrastructure Policy or Master or Sector Plan, will be required as a condition of development approval for a new project. Sections 42A-26 (c) (2) and (c) (3) authorize the Director of MCDOT to adjust individual project goals up to five to ten percent lower or up to five to ten percent higher than the NADMS goal adopted for that Policy Area or TMD:

1. If the new development project is in a Red Policy Area and is a size that requires a Level 3 TDM Plan, the Director may set the NADMS goal up to five percent higher or five percent lower than the adopted base NADMS goal for that area.
2. If the new development is in an Orange or Yellow Policy Area and is a size that requires either a Level 2 TDM Action or Level 3 TDM Results Plan, the Director has discretion to set the NADMS goal for that project up to 10 percent higher or 10 percent lower than the adopted base NADMS goal for that area.
3. The Director may require the owner or applicant to provide an analysis and statistical



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evidence to support an alternative goal.

D. Goal Achievability

As part of the process for developing the Biennial Report for each District or Policy Area, the Department will make an assessment as to the achievability of the NADMS goals and other TDM-related goals, based on current infrastructure, reporting from projects, survey results and other relevant factors.

Section II. Transportation Demand Management Plans for Employers

A. Employer Transportation Demand Management (TDM) Plans

1. Department to provide web-based form. TDM Plans must be submitted by all employers required to do so under the provisions of Section 42A-24 of the County Code. A form will be provided to the employer by the Department. Employers must complete and submit the TDM Plan using the form.
2. Required strategies. Employer TDM Plans must include the following strategies:
 - a) Designate a contact person (Transportation Coordinator) to receive and distribute information to the on-site population, including workers and residents, and to provide information necessary for effective implementation of TDM programs. This information may include data and policies related to transportation and parking, numbers of employees on various shifts and residential ZIP codes of employees or work locations of residents.
 - b) Distribute information on transportation alternatives at least monthly to the on-site population and other members of the workforce. Information must include transit, pooling, and other commuting alternatives, and can vary from month to month. Information on emergency ride home programs, and information on transportation services available to people with disabilities in accordance with the American Disabilities Act, must be included on a periodic basis.
 - c) Allow periodic presentations of transportation information to the on-site population and other members of the workforce. Presentations will be conducted by the County or its representatives by prior arrangement. Presentations may be in-person or virtual.
 - d) Participate in the County's Commuter Survey by providing information on the number of total workforce and on-site populations of various types (e.g., residents or workers) and by distributing survey instruments and requests to complete the survey to the on-site population and workforce in compliance with the percentage response rate from the on-



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site population required under Section 42A-28 of the Code.

- e) Provide a permanent display area on-site in a highly visible location for materials that promote transportation alternatives (e.g., maps, brochures, transit schedules, announcements regarding outreach and other TDM events).
- f) File an Annual Report on Progress of the TDM Plan to indicate how TDM strategies were implemented over the course of the prior year and their effectiveness.
- 3. Optional strategies. Employer TDM Plans may include additional strategies selected by the employer from the Menu of TDM Optional Strategies included in Appendix A, or other TDM strategies proposed by the employer and approved by the Department for that Plan.
- 4. Commitment to implement TDM Plan. An authorized person must commit to implementing the TDM Plan on behalf of the employer.
- 5. County may publish TDM Plans. The County may publish employer TDM Plans and data derived therefrom.

B. Updated Employer TDM Plans

An employer may propose revisions to the TDM Plan based on changes in TDM strategies. If the Department approves the revisions, the employer must implement them.

C. Consolidated Employer Transportation Demand Management (TDM) Plans

Requirements. A Consolidated Employer TDM Plan must include the requirements for an individual employer TDM Plan in II.A. above and must commit all employers included in the Consolidated TDM Plan to implement all strategies included in the plan.

Section III. Transportation Demand Management Plans for Existing Buildings

A. Existing Non-residential Buildings

- 1. Requirements. A TDM Plan for an existing non-residential building required under Section 42A-25 of the County Code must include the requirements for an individual employer TDM Plan as detailed in II.A. above.
- 2. Commitment to implement TDM Plan. The owner of the building or a person authorized by



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the owner must commit to implementing the plan.

B. Existing Multi-Unit Residential Buildings

1. Requirements. A TDM Plan for an existing multi-unit residential building required under Section 42A-25 of the County Code must include the requirements for an individual employer TDM Plan as detailed in II.A. above.
2. Commitment to implement TDM Plan. The owner of the building or a person authorized by the owner must commit to implementing the plan.

C. Annual Transportation Demand Management (TDM) Plan Report

1. Department to provide form. The format of the annual TDM Plan Report that an employer or building owner is required to submit to the transportation management organization and the Department will be provided by the Department as an online form.
2. TDM Plan Report Submission. Building owners, or their authorized representatives, must complete and submit the annual TDM Plan Report through a process established by the Department. Annual TDM Plan Reports must be submitted to the Department by August 31 each year for the County's prior fiscal year ending June 30.

Section IV. Transportation Demand Management Plans for New Development Projects

A. Applicability


This Section IV applies to any new construction or development project subject to Section 42A-26.

B. Project-based TDM Plan Levels

Three Levels of Project-based TDM Plans for new developments are described in Chapter 42A-26 of the Code:

- Level 1: TDM Basic Plan;
- Level 2: TDM Action Plan; and
- Level 3: TDM Results Plan.

The level of TDM Plan required of a project is dependent upon the size of the project and the Growth and Infrastructure Policy Area in which it is located. However, some exceptions to that

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approach are permitted by the Code, and will be implemented as follows:

1. Projects with traffic impacts disproportionate to their size. Under Section 42A-26 (b) (5), projects with gross square feet size disproportionate to their impact on traffic may be required to adhere to a Project-based TDM Plan Level that is lower or higher than is otherwise required by their size and location, in accordance with the development approval and the provisions below.

This determination will be made based on typical trip generation rates in the County for that type of land use. The Department may consult with Maryland-National Capital Park and Planning Commission (M-NCPPC) to determine the appropriate trip generation rates to use and whether the project should be required to adhere to a higher or lower TDM Plan Level because of the total trip generation of the project, or where that trip generation varies significantly from what would otherwise be expected. Other trip generation and transportation management factors, including the gross floor area to the number of employees ratio and employee shift times, may be taken into consideration by the Department in determining the appropriate Level of TDM Plan required, including those presented by the owner or applicant. The Director will make the final determination of the Level of TDM Plan required based upon the trip generation and other factors presented. The Director will advise the applicant of the basis for any adjustment made to the Level of TDM Plan required.

2. TDM Plan Levels. The Project-based TDM Plan Levels identified in Section 42A-26, are shown below in Table A. Under Section 42A-26(b)(4), if an adopted Master Plan or Sector Plan requires a higher Level of Project-based TDM Plan, those requirements override the provisions in Chapter 42A that are shown in the table below.



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TABLE A: Project-based TDM Plan Levels

Growth and Infrastructure Policy Area	No Requirements	Level 1: TDM Basic Plan	Level 2: TDM Action Plan	Level 3: TDM Results Plan
Red Areas	Not Applicable	≤40K	Not Applicable	>40K GSF
Orange Areas	<40K GSF	40K – ≤80K GSF	>80–≤160K GSF	>160K GSF
Yellow Areas	<60K GSF	60K – ≤150K GSF	>150K GSF	TDM Results Plan not required - may be used upon request by Applicant

C. Components of Project-based TDM Plans

The required and optional components of each type of TDM Plan are listed below.

1. Level One: Project-based TDM Basic Plan

- a) Transportation Coordinator. The Transportation Coordinator will have the following duties:
 - i. Serve as a point of contact on commuting and other transportation issues and make TDM-related information available to employees or residents. This information may include data and policies related to transportation and parking, numbers of employees working on-site on various shifts, and residential ZIP codes of employees or work locations of residents.
 - ii. Participate in training and information-sharing programs offered by the Department or its designee at no cost to the owner or Transportation Coordinator. At a minimum each Transportation Coordinator must attend two such programs per



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year.

- iii. Coordinate with the Department to promote use of alternatives to single occupant vehicles and to maximize participation of tenants, employees, and residents in programs to help meet transportation goals.
 - iv. Allow the Department access to tenants, employees, residents, visitors, and other members of the on-site population for purposes of informing and educating about available transportation-related programs and services. This includes coordinating with the Department to conduct on-site and virtual commuting-related outreach events, promotions, and contests.
 - v. Distribute information through use of displays, bulletins, brochures, email notices, listservs, social media, and other mechanisms.
 - vi. Provide the Department with updated contact lists and other relevant information for on-site commercial tenants and employers on a semi-annual basis, which will be used by MCDOT for transportation-related purposes.
 - vii. Assist in the distribution, administration and related activities required for conducting commuting and other transportation surveys as requested by the Department and obtain the response rate from among the on-site population required under the Code.
 - viii. Prepare and submit an annual TDM Plan report outlining the transportation demand management measures, programs and activities conducted during the previous year. The Department will provide the Coordinator with a template for use in preparing the report and notification of the due date.
- b) Notification of Designated Coordinator. Each owner is required to notify the Department of the designated Coordinator's contact information in writing within 30 days of the owner's receipt of the final Use and Occupancy Certificate from the Department of Permitting Services and within 30 days of any subsequent change to that designation or contact information.

This notification must be in the form of a letter sent by U.S. Postal Service or overnight delivery, or by email, to the Department Director, with a copy to MCDOT Commuter Services. The owner must provide the full contact information (i.e., name, mailing address, email, and telephone number) for the new Coordinator.



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The Coordinator must schedule a meeting to discuss the project's implementation of TDM provisions. Meeting participants must include Department representatives and the new Coordinator. The meeting should be scheduled within 30 days of the date on which the Coordinator is assigned.

c) Access to the Project: Provision of on-site space for outreach and promotion of TDM.

- i. The Transportation Coordinator must provide space in the development for outreach, marketing, and promotional activities. Space provided need not be exclusively for this purpose but must be suitable, in the Department's judgment, for outreach and promotion of TDM.
- ii. Marketing and promotional activities will include periodic hosting of TDM-related events and contests prepared or conducted solely by the Transportation Coordinator or in concert with MCDOT.

d) TDM Information: Displays of Real-Time Transit and Dissemination of Other Information.

- i. The owner or applicant must provide a permanent information display in a highly used location (e.g., the lobby of the building) providing commuter and general transportation information and promotional material on TDM programs available on-site, and in the District, the County, and the region. This display may be electronic as discussed in Subsection iii below, or paper-based. If paper-based, the Transportation Coordinator must ensure the display is kept stocked with current information, in coordination with MCDOT and other transit and micromobility providers.
- ii. If the Project has primary access points for visitors and members of the public which are different from those access points for occupants of the building (e.g., residents and employees), a display must be provided in each of the primary access areas to reach each of these target markets.
- iii. The owner or applicant must provide space and equipment for at least one real-time transit information digital display at a highly used location in the project to assist occupants and visitors, as appropriate, with transportation information. The owner or applicant must provide conduit, electrical and internet connections, and must supply a monitor of at least 32 inches for this purpose. The Transportation Coordinator must ensure displays on such monitor(s) include all relevant real-time transit information and other commuter and general transportation information and promotional displays



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related to TDM programs, in coordination with MCDOT and other transit and micromobility providers.

- iv. As an alternative to item iii. above, the owner or applicant may display transit information on monitor(s) the applicant or owner uses to display other information related to the project. Such monitor(s) must be at least 32 inches. The Transportation Coordinator must ensure displays on such monitor(s) include all relevant real-time transit information and other commuter and general transportation information and promotional displays related to TDM programs. If new information dissemination methods become available, substitutes for display monitors may be recommended by the owner or applicant and may be accepted by the Department.
- v. The Department must approve the location of the display.
- vi. The Transportation Coordinator or designee may distribute commuting and other MCDOT information electronically, for example, through e-newsletters and mass emails. The Transportation Coordinator must retain proof of such distribution and provide it to the Department upon request.

2. Level Two: Project-based TDM Action Plan

This plan must include all components required for the Level One Project-based TDM Basic Plan, plus the additional required components shown below:

- a) Selection of Strategies. Each Level Two: TDM Action Plan must include the required strategies shown for Level One, plus optional strategies selected by the project applicant or owner, such as those shown on the Menu of TDM Optional Strategies in Appendix A. Additional strategies may be proposed by the project owner or applicant and may be included in the TDM Plan upon approval by the Department. The optional strategies will be selected by the owner or applicant with advice from the Department and must be sufficient to contribute toward achieving a NADMS goal that is five percent higher than the NADMS goal for that District, to help achieve the District-wide commuting goals.
- b) Commitment to Fund and Implement the Plan. Each TDM Action Plan must be accompanied by a financial commitment by the owner or applicant to fund the program with adequate financial resources and at a level at least equivalent to 50 percent of the annual TDM fee level for the Project. The owner or applicant must commit to increase funding to the full level of the commitment as necessary to



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contribute toward achieving the District or Policy Area goals. This commitment to support the project's on-site program with these financial resources will be separate from and in addition to required payment of TDM fees to the County to support broader TDM-related infrastructure and programming for that District.

- i. At the time of the adoption of this Regulation, no TDM fees have been applied to multi-unit residential development. Until such time as TDM fees are adopted for multi-unit residential development, the owner or applicant must commit to a level of onsite funding for implementation of their TDM Action Plan equivalent to the level that would be required if the multi-unit residential portion of the project were commercial.
- c) Self-Monitoring – Beginning Year 2. Beginning two years after Date of Final Occupancy, and at least every other year thereafter, the owner or applicant must collect data on the effectiveness and results of the TDM strategies included in the TDM Action Plan. This monitoring must determine if implementation of the TDM plan is contributing toward achievement of the District or Policy Area goals. The Department will provide a template which must be used for the self-monitoring program. Self-monitoring must include use of approved survey instruments and other approved data collection methodologies.
- d) Biennial Report. The data collected regarding implementation of TDM strategies, contribution toward achievement of District or Policy Area goals, and any related findings must be included in a Biennial Report submitted to the Department. The Department will provide a report template. Biennial Reports may be published on the Department's website.
 - i. Accounting. An accounting for funds expended on the project's TDM plan implementation must be provided. The Department or its representatives will be entitled to conduct spot checks or audits of information in the report, including self-monitoring results. The owner must provide supporting documentation upon request by the Department.
 - ii. Due Date of Report. The first Biennial Report is due no sooner than two years after Date of Final Occupancy. The Department may designate a specific date each year or a specific schedule regarding when these reports are to be submitted.
- e) Addition and Substitution of Strategies – Beginning Year 4. If the strategies initially



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selected from the Menu of TDM Optional Strategies by the owner or applicant do not result in the project contributing toward continued progress in achieving the District or Policy Area goals four years after Date of Final Occupancy, the project owner may be required by the Department to add or substitute other TDM strategies at the project site, selected from the Menu or others suggested by the owner and approved by the Department.

- i. No additional funding of the project's TDM Plan beyond the original commitment will be required; however, funds committed under paragraph b. above may be required to be expended or shifted to alternative strategies to produce better results, and additional funds may be voluntarily provided. The Department has the option to waive this requirement.
 - ii. The Department must approve the project's revised TDM Plan and any changes in funding allocations or structure. A copy of the approved revised TDM Plan may be provided to M-NCPPC.
- f) Additional Funding Commitment – Beginning Year 6. If the project is not contributing toward progress in achieving the TMD goals six years after Date of Final Occupancy, the project owner shall be required to allocate one multiple of annual TDM fees to augment their TDM Plan implementation. For multi-unit residential components, paragraph C. 2. b. i. above, applies. This added funding for the project's on-site program will be in addition to the required payment of TDM fees to the County.
- i. Continued Funding. Allocations of one multiple of annual TDM fees must continue each year until the project demonstrates progress toward achievement of the District or Policy Area goals over a period of at least three years.
- g) Determination of Contribution Toward Project, District or Policy Area Goals. Determination as to whether a project with a TDM Action Plan is contributing toward achievement of a District or Policy Area goals will be made by the Department based on the project's annual average percentage improvement or total percentage improvement in NADMS over multiple years. NADMS will be determined by the Department based on commuter surveys conducted by the Department and using other data relevant to this determination.
- i. Measuring Contribution Toward Achievement of Goal. A Project-



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based TDM Action Plan will be considered to have contributed to achievement of the District or Policy Area goal if it is improving the on-site NADMS proportional to the level necessary to achieve the goal by the target date established by the Master Plan, Sector Plan or Growth and Infrastructure Policy.

For example, if the NADMS goal for a District or Policy Area requires an improvement of 20 percentage points, and that target was established in a Master Plan with a 20-year horizon, the average annual percentage increase at a new project to fill that gap should be one percent, and after four years a new project should have improved its NADMS by four percent.

- ii. Adjustments in Annual Percentage Required for Determining Contribution. If survey results of the District or Policy Area as a whole show that the gap between existing NADMS and the target NADMS has narrowed, as determined in the sole discretion of the Department, the annual percentage needed to constitute contribution toward progress for the remaining years will decline; if survey results show the gap has increased, the annual percentage needed will increase.

In making this determination, the Department may consider any relevant factors and will make the final determination as to whether a project is contributing to District or Policy Area NADMS goals after receiving project-based information.

Information on how the commuter surveys will be conducted and types of information to be collected will be made available to Transportation Coordinators in advance of the survey effort.

The Department will work with a recognized survey consultant to conduct analysis of survey results and to ensure proper interpretation of those results.

- iii. Performance Incentives. When the project has contributed toward achievement of the District or Policy Area goals for a period of ten successive years, the Department will provide the project with a credit of 50 percent toward payment of its TDM fees on an annual basis for every additional year during which it continues to so contribute. Alternative performance incentives may be proposed by the owner or applicant for approval by MCDOT. The project owner or manager



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must complete an application for the credit, and documentation confirming continued achievement of the goals over the 10-year period. The application for credit will be posted on the MCDOT website.

3. Level Three: Project-based TDM Results Plan

This plan must include all components required for the Level Two Project-based TDM Action Plan and will be assessed as to achievement of the project goal in the same manner as the Level Two Project-based Action Plan, consistent with IV.C.2. g) above, plus the following:

- a) Commitment to Highly Effective TDM Strategies. Each TDM Results Plan must include certain required strategies along with optional strategies selected from the Menu of TDM Optional Strategies included in Appendix A or other strategies approved by MCDOT. The optional strategies will be selected by the owner or applicant with advice from the Department, if requested by the owner or applicant, and must be determined by the owner or applicant to be sufficient to achieve NADMS for that project that is five percent higher than the NADMS goal for that District or Policy Area, in order to help achieve the relevant commuting goals.

The owner or applicant must select effective strategies designed to achieve the results required at the project within six years after the Date of Final Occupancy.

- b) Commitment to Fund and Implement the Plan. Each TDM Results Plan must be accompanied by a financial commitment by the owner or applicant to fund the plan at a level adequate to achieve the project's goals within a six-year period from Date of Final Occupancy. This commitment must be at least equivalent to that of the annual TDM fee level for the Project. This commitment to support the project's on-site program with these financial resources will be in addition to required payment of TDM fees to the County.

While a project is not required to expend the full amount of funding in the first year, there must be a commitment to increase funding to the full level of the commitment as necessary to accomplish the project's goals.

At the time of the adoption of this Regulation, no TDM fees have been required of multi-unit residential development. Until TDM fees are adopted for multi-unit residential development, the owner or applicant must commit to a level of onsite funding for implementation of their TDM Action Plan equivalent to the amount that would be required if the multi-unit residential portion of the project was classified as



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commercial.

- c) Self-Monitoring. Same requirements as for Level Two TDM Action Plan.
- d) Biennial Report. Same requirements as for Level Two TDM Action Plan.
- e) Independent Monitoring and Additional Funding Commitments – Level 3-Results Plans – Beginning Year 6. In the sixth year following Date of Final Occupancy, the owner or applicant must retain an independent consultant to collect data, monitor program implementation, and otherwise provide a comprehensive review of the program in place at the project, including funds expended and results achieved. The consultant must be selected by the owner or applicant and approved by MCDOT.

This review shall determine whether the project is meeting its goals as established in the development approvals, and if it is not, what additional level of resources must be committed to the Project-based program. The data collected, and any related findings and conclusions, must be included in a report submitted to the Department by the consultant. The Department or its representatives shall be entitled to conduct spot checks, to meet with the consultants, and to conduct reviews or audits of these results.

- i. Level 3-Results Plans - Projects Meeting TDM Goals

Year 6: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring for one year during the sixth year of occupancy. The independent consultant must generate a report at the end of that year to assess achievement of the project's goals. If the goal is met for eight of the preceding twelve months, goals will be considered met. If the independent monitoring indicates the project is meeting its goals, the project owner will not be required to conduct independent monitoring again for three years until Year 9.

Year 9: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring for one year during the 9th year of occupancy. The independent consultant must generate a report at the end of that year to assess achievement of the project's goals. If the goal is met for eight of the preceding twelve months, goals will be considered met. If the independent monitoring indicates the project is meeting its goals, the project owner will not be required to conduct independent monitoring again for three years until Year 12.



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Year 12: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring for one year during the 12th year of occupancy. The independent consultant must generate a report at the end of that year to assess achievement of the project's goals. If the goal is met for eight of the preceding twelve months, goals will be considered met. If the independent monitoring indicates the project is meeting its goals, the project owner will not be required to conduct independent monitoring again for six years until Year 18.

Subsequent Years: After Year 12, an independent consultant retained by the owner or applicant must continue to conduct monthly independent monitoring every six years so long as the reports indicate the project is continuing to meet its goals. If a report indicates the project is no longer meeting its goals, the protocol indicated below for Projects Not Meeting TDM Goals must be followed.

Figure 1 on the following page provides a graphic summary of these requirements.

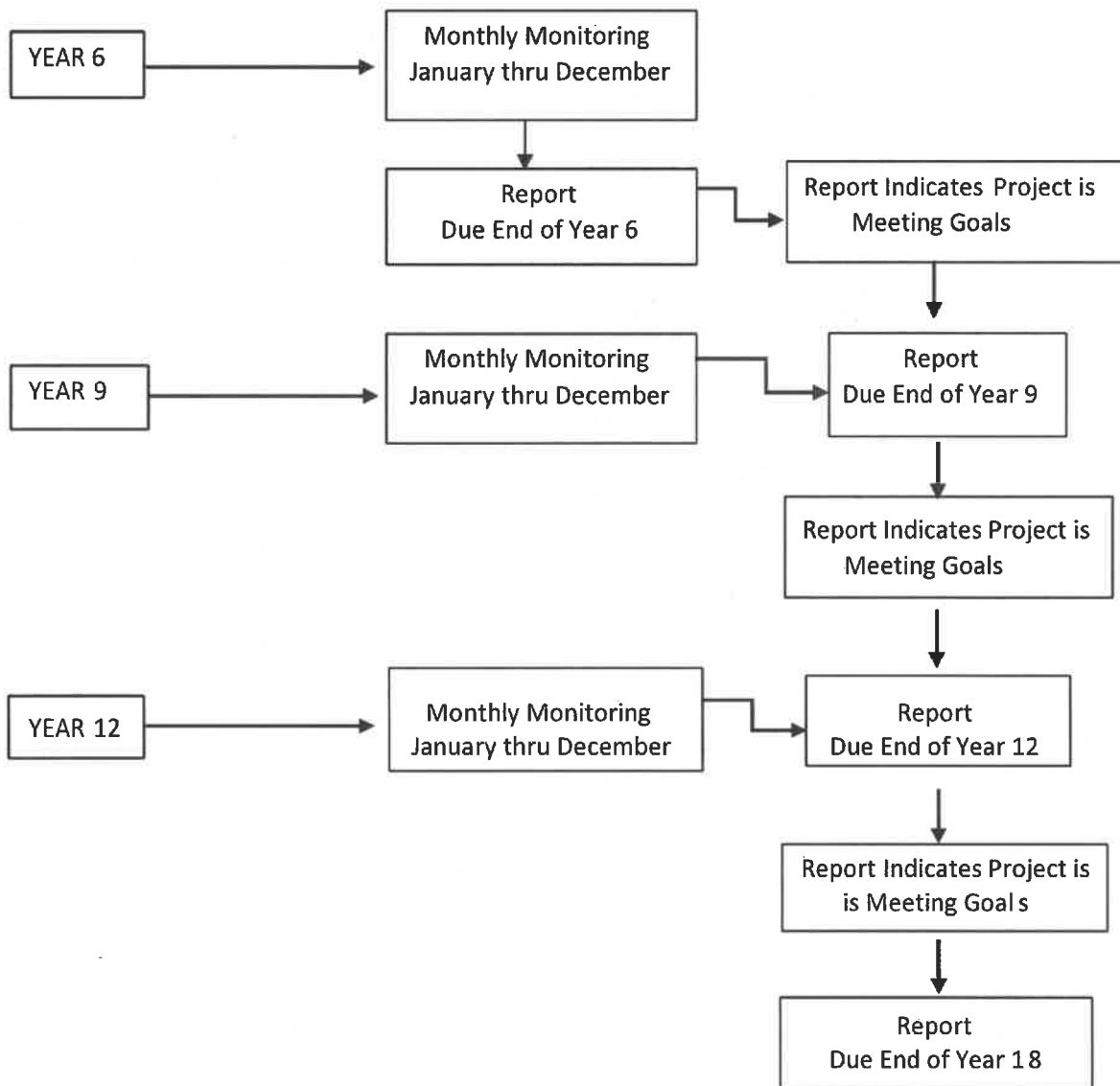


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Figure 1. Independent Monitoring Schedule for Projects Meeting Goal (Years 6 - 12)





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ii. Level 3-Results Plans - Projects Not Meeting TDM Goals

Year 6: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring for one year during the sixth year of occupancy. A report must be generated at the end of that year to assess achievement of the project's goals. If the goal is not met for eight of the preceding twelve months, goals will be considered not met. If the independent monitoring indicates the project is not meeting its goals, changes to the TDM Plan will be required.

Additional Funding Commitment: A multiple of two-times the annual TDM fee amount must be spent by the owner or applicant to improve performance of the program. Independent monitoring must be repeated each month for one year following changes to the program.

Year 8: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring for one year during the eighth year of occupancy. If the project is not meeting its goals, changes to the program must be made.

Additional Funding Commitment: A multiple of four times the annual TDM fee amount must be spent by the owner or applicant to improve performance of the program. Independent monitoring must be repeated each month for one year following changes to the program.

Year 10: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring to determine if the revised program has met its goals. If the project has not met its goals, changes to the program must be made.

Additional Funding Commitment: A multiple of six times the annual TDM fee amount must be spent by the owner or applicant to improve performance of the program. Independent monitoring must be repeated each month for one year following changes to the program.

Year 12: An independent consultant retained by the owner or applicant must conduct monthly independent monitoring determine if the revised program has met its goals. If the project has not met its goals, changes to the program must be made.



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Additional Funding Commitment: A multiple of eight times the annual TDM fee amount must be spent by the owner or applicant to improve performance of the program. Independent monitoring must be repeated each month for one year following changes to the program.

Figure 2 on the following page provides a graphic summary of these requirements.

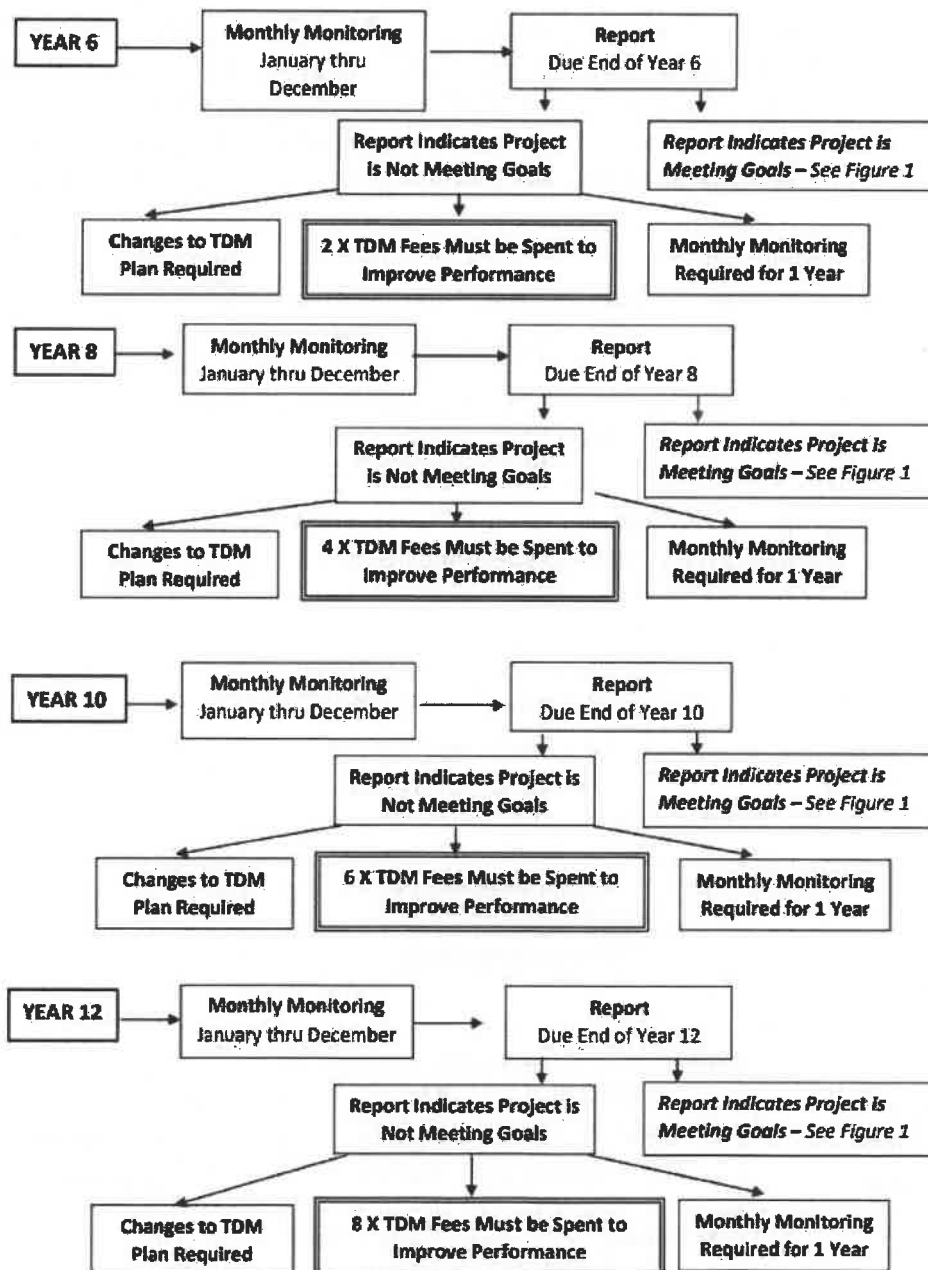


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Figure 2. Independent Monitoring Schedule for Project Not Meeting Goals (Years 6 – 12)





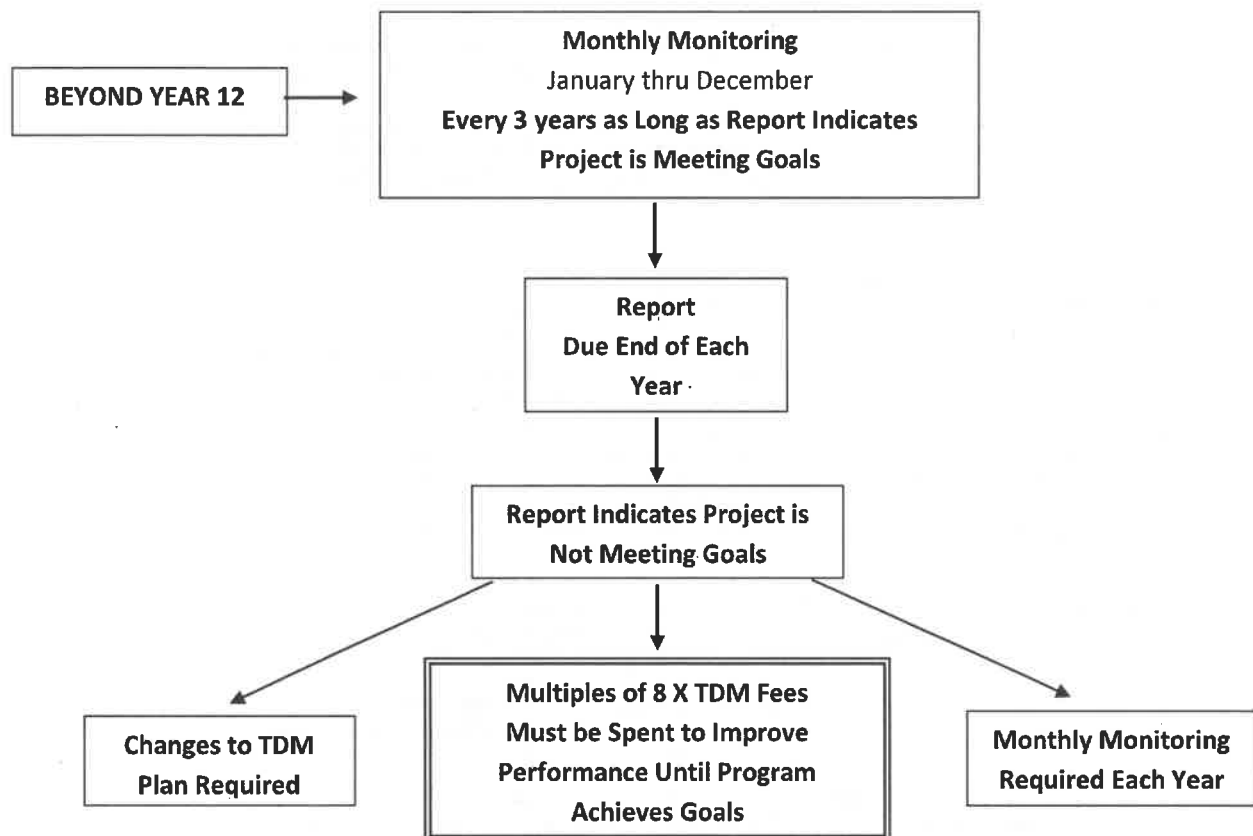
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Subsequent Years' Monitoring and Funding: After Year 12, if the project is not meeting its goals, independent monitoring must continue, and reports must be issued at the end of each year. Increased funds must continue to be dedicated by the owner or applicant for use in the on-site program at a level of eight times the annual TDM fee amounts until the program achieves the project's goals. When the project does achieve the goals, the project owner is then required to comply with Section C.3.e) above. See Figure 3, below.

Figure 3. Independent Monitoring Schedule for Level 3-Results Plan - Projects Not Meeting Goals
(Beyond Year 12)





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- f) Addition and Substitution of Strategies for Level 3-Results Plans – Beginning Year 4.
The same provisions are in effect for Level 3-Results Plans as for Level 2-Action Plans, with the addition of the provisions below:

Following the addition or substitution of strategies, the owner is required to retain an independent consultant to conduct independent monitoring the following year and must continue conducting independent monitoring in alternating years until the project's goals are achieved. Once the commuting goals are achieved, the project must maintain that level of NADMS required and any other commuting goals established for that project. Independent monitoring must be conducted every six years after achieving the goals. If the independent monitoring indicates the project is not meeting its goals, the provisions of subsection C.3 (e) above will be implemented, requiring independent monitoring be conducted every two years until the project again meets its goals.

- g) Additional Funding Commitment for Level 3-Results Plans – Beginning Year 6.

If the strategies selected by the owner for the TDM Results Plan do not result in achievement of the project goals, the provisions of subsection C.3 (e) above will be implemented. The Department may exercise judgment as to whether the maximum amount of additional funding indicated will be required in the event a project falls only a small amount short of the goals at each point in the process.

All references to additional funding levels for project-based programs with regard to multi-unit residential development is in accordance with subsection C. 3(b) above.

All additional funds committed under this provision must be used by the owner or applicant to supplement funding of TDM programs to achieve the project's goals. This added funding for the project-based programs will be in addition to the required payment of TDM fees to the County to support broader TDM-related infrastructure and programming.

The funding and staffing resources dedicated to the project's TDM Results Plan must remain at the level at which the goal is being achieved, or where substantial progress is evidenced, as determined by the Department.

The Department will determine the level of increased financial support to be required up to the maximum multiple of the TDM fees as established in this Regulation, approval of the specific components to be added to the strategies, and any fines to be imposed consistent with the Enforcement provisions of the Code



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and this Regulation.

- h) Performance Incentives. Same provisions are in effect as for a Level Two: TDM Action Plan.

D. Process and Enforcement

A Project-Based TDM Plan and any amendments thereto, must be recorded in the County's Land Records. These documents may be included by the County on its website and in publications as part of the implementation and enforcement of these provisions.

E. Menu of TDM Optional Strategies

The table in Appendix A, Menu of TDM Optional Strategies, provides a list of the optional TDM strategies that could be implemented within each Level of the Project-based TDM Plans: Basic, Action, and Results. These strategies and additional ones accepted by the Department are listed on the Department's website and will be updated periodically.

- F. This Executive Regulation will take effect immediately after adoption by the County Council.

A handwritten signature in cursive script, appearing to read "Marc Elrich".

Marc Elrich
County Executive

Date: 12/14/2023

Approved as to form and legality:
Office of the County Attorney

A handwritten signature in cursive script, appearing to read "Clifford Royalty".

Date: Dec 6, 2023



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Appendix A MENU OF TDM OPTIONAL STRATEGIES

Category	TDM Strategy Options
A. Parking Reduction	<p>Provide fewer than the maximum number of spaces allowed by the Zoning Ordinance.</p> <p>Provide market-rate parking for employees and residents.</p> <p>Provide Parking Cash-Out (payment to employee for not utilizing parking space).</p> <p>Provide carpool and vanpool parking in preferential parking location(s) for at least 2 spaces for every 100 spaces near main entrances, elevators, or stairs.</p> <p>Unbundle parking from lease arrangements.</p> <p>Charge premium rates for peak period or single-occupancy vehicle parking.</p> <p>Provide discounted parking access for carpools/vanpools.</p> <p>Charge premium/surcharge for entry or exit to or from a parking facility during peak periods.</p> <p>Require daily payment with no long-term passes or other long-term arrangements.</p> <p>Offer no "Early Bird Special" parking rates.</p> <p>Provide no parking validation for retail or restaurant patrons or, if parking validation is offered to retail or restaurant patrons, provide an equal amount of funds in the form of a transit or biking benefit.</p>



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B. Transit Support	<p>Provide subsidized transit passes (i.e., SmartBenefits).</p> <p>Provide transportation services (e.g., buses, circulators, shuttles, micro-transit).</p> <p>Provide mid-day, short term services and support for first mile/last mile connections (i.e., pay for carshare service memberships, taxi fare, Uber/Lyft).</p> <p>Provide covered walkways for paths leading from bus stops to entrance and benches at the covered bus stops.</p> <p>Provide porte-cochere, weather-protected entrance area for use by transit and shuttle buses, vans, other multi-passenger vehicles only.</p> <p>Prohibit use by Single Occupant Vehicles (SOVs) except for Wheelchair-Accessible vehicles.</p> <p>Develop a Walker Escort program for movement to and from transit stops to workplace or resident entrances, and for off-site parking facilities.</p> <p>Participate in or fund a private Emergency Transportation Program (e.g., enhanced Guaranteed Ride Home) .</p> <p>Offset vehicle trips by supporting shuttle buses to connect other locations to public transit and for midday travel to retail and dining destinations.</p> <p>Support/subsidize/offer discounted fares on commuter bus, subscription bus and vanpool services.</p> <p>Adopt gamification techniques, including cell phone or software applications to promote use of transit. Some applications run contests and other promotions to award points, gifts, and other perks to those using transit.</p>
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C. Employee & Resident Incentives	<p>Spend \$50 – 100 per employee or resident per year on incentives to use non-auto modes of commuting or mid-day travel.</p> <p>Spend \$100 – \$200 per employee or resident per year on incentives to use non-auto modes of commuting or mid-day travel.</p> <p>Spend \$200 or more per employee or resident per year on incentives to use non-auto modes of commuting or mid-day travel.</p> <p>Spend up to the maximum monthly transit/vanpool subsidy permitted by Federal law.</p>
D. Bicycle Commute Support	<p>Offer a bicycle reimbursement benefit (monthly, quarterly, or annual).</p> <p>Develop a Biking Buddy-type program to mentor new riders and match riders with similar origins and destinations.</p> <p>Construct end-of-trip facilities such as showers and locker rooms or allow use of existing facilities.</p> <p>If on-site showers and lockers do not exist, arrange for employees to use nearby fitness centers.</p> <p>Offer free or discounted memberships to nearby fitness centers for those using active transportation to commute.</p> <p>Pay for bicycle education and safety classes.</p> <p>Provide Rainy Day Parking spaces for cyclists in covered parking facility.</p> <p>Reimburse for purchase of safety gear, e.g., vests, reflectors.</p>



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	<p>Create an Earn a Bike program where a person may log a specific number of bike commutes in one year to earn a bicycle.</p> <p>Create a secure, locked indoor bike parking area where bikes can be stored.</p> <p>Provide bicycle repair stations on-site, preferably within a bike storage room.</p> <p>Offer valet parking for bicycles.</p> <p>Provide special access to indoor parking facility for bikes, e.g., dedicated elevator, ramp or similar.</p> <p>Provide, or support creation of, a “Bike Station” facility for bike storage and repair, showers, and sale of equipment.</p> <p>Provide bicycle and e-scooter parking corrals and offer rental and purchase discounts to employees and residents.</p> <p>Provide discounted annual bikeshare memberships to all employees.</p> <p>Adopt gamification techniques or applications to promote use of cycling as a commute mode. Some applications run contests and other promotions to award points, gifts, and other benefits to those cycling to work.</p>
E. Pedestrian Commute Support	<p>Offer a monthly, quarterly, or annual walking shoe reimbursement benefit.</p> <p>Develop a mentorship program for new walking commuters and offer a “Walk Buddy”-type program to match walkers with similar origins and destinations.</p> <p>Make improvements to sidewalks and paths to facilitate use by people using wheelchairs, walkers, strollers, and hand carts.</p> <p>Provide shade-covered benches around the property.</p>



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	<p>Ensure brightly lit, well-maintained pathways to and from transit stops and other transportation alternatives resources.</p> <p>Provide security call buttons or phones along paths where no adjoining uses are accessible, or security may otherwise be an issue deterring use.</p> <p>Reimburse for purchase of pedestrian (and cyclist) safety gear, e.g., vests, reflectors, etc.</p> <p>Adopt gamification techniques, including cell phone or software applications to promote use of walking as a commute mode. Some applications run contests and other promotions to award points, gifts & other benefits to those walking to work.</p>
F. Amenities Supporting Commuting Alternatives	<p>Provide amenities onsite to reduce the need to make a vehicle trip (i.e., convenience retail, dry cleaning, coffee shop, nail salon, etc.)</p> <p>Provide on-site or nearby daycare.</p>
G. Telework and Alternative Work Schedule Programs	<p>Allow employees (for whom it is feasible) to alter work schedules. Allow compressed work week arrangements, flex-time, and other flexible options.</p> <p>Alternative Work Schedules (AWS) can be offered by employers.</p> <p>Allow employees to telework and provide support services and technology.</p> <p>Allow employees to count time spent traveling by transit to work toward total work hours if they can work while commuting.</p> <p>Require tenants to allow telework for employees for whom it is feasible.</p>



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H. Technology Support	<p>Purchase or reimburse for smartphone or tablet mobile applications (including in-app purchases) that provide information on non-SOV transportation options, real-time transit information, help commuters keep track of commuter incentive rewards.</p> <p>Pay for provision or improvement of broadband access at employee or resident home locations to facilitate telework.</p> <p>Develop an Employee Commute intranet site with links to schedules for non-auto transportation options, locations of park and ride facilities, rideshare matching sites, trip planning tools, bike maps, Frequently Asked Questions.</p> <p>Install voice-activated transit screens for real time transit, maps, alerts, and updates.</p> <p>Install pedestrian and cyclist counters and displays to show level of pedestrian and cyclist activity around property.</p>
I. Marketing and Outreach Support	Sponsor County, State, and Regional Events that promote biking, walking and other alternative modes of commuting.
<p>Strategies listed above are examples of options; this is not all-inclusive list. The Department will consider other types of programs and actions that in the judgment of MCDOT are likely to be successful in persuading employees, residents, and visitors to use alternative modes of travel, particularly during peak periods.</p>	

Fiscal Impact Statement

Office of Management and Budget

Executive Regulation 8-21

Transportation Demand Management

Regulation Summary

The regulation implements Transportation Demand Management (TDM) provisions which were amended or added by Bill 36-18, enacted by County Council on December 3, 2019, and effective on March 13, 2020.

Fiscal Impact Summary

This regulation is not likely to have an impact on county revenues or expenditures. The regulation primarily focuses on requirements for TDM plans developed by employers and/or property owners. As outlined previously in the fiscal impact statement for Bill 36-18, increased development in areas where TDM plans are required could lead to increased TDM revenues as well as increased expenditures by MCDOT to administer the program. However, due to the unpredictable nature of future private-sector development, information needed to calculate impacts on revenues and expenditures is not available at this time.

This regulation is not likely to have an impact on county revenues or expenditures. Any fiscal impacts are the result of adoption of the amendments and additions to the Code pursuant to Bill 36-18. A copy of the analysis submitted at the time of the Council's consideration of that legislation is attached.

The changes in Bill 36-18 expanded TDM to reduce traffic congestion and automobile emissions, support multi-modalism and achieve non-automobile travel goals, enhance efficient use of transportation infrastructure, and promote sustainable existing and future development. The bill also established the requirements for TDM plans for employers and development projects in certain areas of the county.

Fiscal Impact Analysis

Prior to the adoption of Bill 36-18, certain TDM measures were required at new developments and for employers with over 25 employees located within the six designated transportation management districts ("TMDs"): Bethesda, North Bethesda, Silver Spring, Friendship Heights, Greater Shady Grove and White Oak. Existing buildings in those TMDs could also be required to adopt TDM measures under certain circumstances. The new TDM provisions expand these TDM measures beyond the current TMDs to all of the county's Red, Orange, and Yellow Transportation Policy Areas, as specified in the Growth and Infrastructure Policy. New development projects and employers in these areas are required to submit TDM plans based on the project size or number of employees and the type of policy area in which they are located. The proposed Executive Regulation provides additional guidance on how the Department of Transportation intends to implement those provisions.

MCDOT advises that implementing these changes is likely to increase the level of effort required to administer the TDM program, which could include in-house staff augmentation, increased reliance on contract staff for outreach and promotional efforts, and additional IT support. Increases in expenditures would be driven by new development in Transportation Policy Areas, and these increases would be offset by increased revenues from TDM fees on these developments. The fiscal impact statement for Bill 36-18 estimated that the total increase in expenditures and corresponding revenues could range from \$3.48 million to \$4.35 million over a six



year period. These impacts would not result from this regulation but rather from the changes specified in the bill.

Staff Impact

The regulation is not expected to impact staff time or duties. However, as discussed in the fiscal impact statement for Bill 36-18, the impacts from the adopted revisions to the County Code will require two full time Grade 23 staff (80 hrs./week) to implement the expanded program, including providing oversight of contractors and collecting and monitoring development fees once the program is fully implemented. In addition, four to eight hours per week of administrative support from MCDOT Commuter Services staff will be needed.

Actuarial Analysis

The regulation is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The regulation is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The regulation does not authorize future spending.

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

Uncertain and variable rates of development in both the current TMDs and non-TMD areas for completed projects could impact both expenditures and revenues. The previous analysis assumed a rate of approximately 25 projects per year to be covered by the new TDM approach. If that rate of development increases, additional County staff and/or contracted staff may be required beyond those assumed here. Additional development would result in corresponding increases in revenue which should be sufficient to cover those added costs. Note that proposed incentives for achievement of TDM plan goals include a credit of 50 percent toward payment of TDM fees, which could lead to reduced revenues in the case of successfully implemented plans.

Sources of information

Fiscal Impact Statement for Bill 36-18 (attached)

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