



**Committee:** T&E

**Committee Review:** At a future date

**Staff:** Ludeen McCartney-Green, Legislative Attorney

**Purpose:** To introduce agenda item – no vote expected

**Keywords:**

#transporationdemandmanagement#tmdrepeal

AGENDA ITEM #1H

June 17, 2025

**Introduction**

## **SUBJECT**

Bill 24-25, Transportation – Transportation Demand Management – Repeal

Lead Sponsors: Councilmembers Balcombe and Glass, and Council President Stewart

## **EXPECTED ATTENDEES**

None

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- N/A

## **DESCRIPTION/ISSUE**

Bill 24-25 would:

- (1) repeal Article II of Chapter 42A of the Montgomery County Code; and
- (2) amend the law governing transportation demand management in the County.

## **This report contains:**

Staff Report

Bill 24-25

Sponsor's Memorandum

Pages 1-4

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**MEMORANDUM**

June 12, 2025

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 24-25, Transportation Demand Management - Repeal

PURPOSE: Introduction of Bill – no vote required

Bill 24-25, Transportation Demand Management - Repeal, sponsored by Lead Sponsors Councilmembers Balcombe and Glass, and Council President Stewart, is scheduled to be introduced on June 17, 2025. A public hearing is tentatively scheduled for July 8 at 1:30 p.m. A Transportation and Environment (TE) committee worksession will be scheduled at a later date.

**PURPOSE**

Bill 24-25 would repeal Article II of Chapter 42A of the Montgomery County Code and amend the law governing transportation demand management in the County. Lead Sponsor Councilmember Balcombe explained the purpose of introducing this bill. See Sponsor's memorandum at page © 31.

**BACKGROUND**

Since the creation of the Silver Spring Transportation Management District (TMD) in the mid-1980s, employers in Montgomery County's TMDs have been required to submit "traffic mitigation plans." In 2006, the Council created a system for Transportation Demand Management (TDM) fees and requirements for certain employers, also expanding those requirements to new buildings. The current TDM fee is \$0.10 per square foot, yielding about \$1 million per year to fund MCDOT's administration of the TDM program. Since 2006, "traffic mitigation plans" have given way to TDM Plans.<sup>1</sup>

The most recent change to the TDM program in the County was Bill 36-18, Transportation Management – Transportation Demand Management Plan – Amendments, enacted by the Council in December 2019. Bill 36-18 expanded the County's use of TDM to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote sustainability of

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<sup>1</sup> TE Worksession Staff Report dated July 18, 2024, by legislative analyst, Stephen Kenny.  
[https://montgomerycountymd.granicus.com/GeneratedAgendaViewer.php?view\\_id=169&clip\\_id=17481](https://montgomerycountymd.granicus.com/GeneratedAgendaViewer.php?view_id=169&clip_id=17481)

existing and future development, implemented commuter surveys, included residential building type, and added more enforcement mechanisms for Montgomery County Department of Transportation (MCDOT).

Under existing law, TDM strategies are required for new developments in certain policy areas of the County, as defined by the Growth and Infrastructure Policy (GIP), the intent here is to make the County's approach more flexible and responsive to changing parameters in transportation and development, and increase accountability for results amongst employers and building owners. Essentially, by law, a TDM plan should include a set of strategies designed to be implemented for: 1) new or existing buildings, 2) new or existing development, or 3) for employers of a certain size (25 employees +). However, the options, recommended, or specific TDM strategies for employers or owners to adopt, among other requirements, were not codified in law but would be delineated in executive regulations.

The action staff report provided to the Council before action on Bill 36-18<sup>2</sup> included a proposed timeline for the implementation of a successful TDM program. The following was stated in the Council staff report on page 2:

“The revisions of the County's transportation demand management program will be contained in four sequential Council actions: (1) Bill 36-18; (2) the Executive Regulation following from the version of Bill 36-18 ultimately enacted; (3) a resolution identifying a new set of Transportation Management Districts (TMDs), their geographic scope, and the composition of their advisory committees; and (4) the TDM fee schedule, which will be included in a revised version of the resolution that sets transportation fees, charges, and fares. Soon after the Council's version of Bill 36-18 is enacted, DOT will promulgate a draft Executive regulation. Council staff believes that this Method 2 regulation could be transmitted to the Council in early 2020.”<sup>3</sup>

While Bill 36-18 was passed in 2019, parts (2) – (4) of the above, are still pending and/or have not been submitted for review or action by the Council. The executive regulations were drafted in 2021 (8-21) but were never formally submitted or reviewed by the Council.

#### *TDM Executive Regulations 8-21*

The Joint TE and ECON committee began the review of the draft regulations in July 2024, 4 years after the legislation passed. However, the Committee decided to pause review of the draft regulations until after the GIP review because the GIP goals are tied to the TDM program. The GIP includes a primary quantitative objective to achieve the Non-Auto-Driver Mode Share (NADMS) goals in Red, Orange, and Yellow policy areas in the County.<sup>4</sup> For more information, a detailed staff report is available [here](#).

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<sup>3</sup> Action Staff Report on Bill 36-18, December 3, 2019, at page 2.

<<https://apps.montgomerycountymd.gov/ccllims/BillDetailsPage?RecordId=2592&fullTextSearch=36-18>>

<sup>4</sup>Many master and sector plans stipulate the NADMS goal(s) in their respective areas, based on what is necessary to bring each of the areas into land use/transportation balance at build-out. Some areas have goals that apply only to employees arriving or leaving work (i.e., Silver Spring CBD); some plans also have goals for residents living in that area commuting to work (i.e., North Bethesda, Chevy Chase Lake); and some blend the two into one goal (i.e., Bethesda CBD).

The latest action on the ER 8-21 was a recommendation by the TE Committee to extend the deadline for review until July 31, 2025. The Council, on February 4, 2025, unanimously approved the motion to extend. See resolution [here](#).

### *Office of Inspector General Audit Report*

As described in the sponsor's memorandum, the Office of Inspector General (OIG) conducted a review back in March 2025 to evaluate the Department's compliance with the requirements of Transportation Management Districts (TMD) and evaluate the data used to support claims of effectiveness for increasing NADMS in the County. The OIG found that MCDOT did not ensure employers complied with TDM plans or commuter-related surveys and did not publish or provide certain entities with progress reports as mandated under the TDM law. Here is the full report and recommendations provided by OIG: [OIG Publication #25-09](#)

### **BILL SPECIFICS**

As described above, Bill 24-25 seeks to repeal the entire Transportation Demand Management program for employers, existing owners, and applicants of new development projects. However, **before a repeal would go into effect on December 31, 2025. Section 2 of the bill text (lines 738-756) provides a phase-out of the TDM plan requirements.**

*First phase - Notice.* By September 1, 2025, MCDOT will be required to send notices to each person affected by the repeal, including employers, building owners, or any responsible party that has an existing TDM plan under Section 42A-24 or 42A-25. The notice is required to include information about: 1) the timeline for the phase out of the program; 2) confirmation that the site/location is no longer subject to any TDM requirements under Chapter 42A; 3) guidance regarding the release of any liens recorded in the County's land records; and 4) cancellation of any traffic mitigation agreements previously executed.

*Second phase – Lien Release.* Under existing law, §42A-26, a project-based TDM plan (a plan that indicates a commitment to achieve a NADMS share greater than 5% of the TMD goal) proposed by an applicant or owner and approved by the MCDOT, and is later recorded in the County's land records against the property/site. The transition clause requires that starting September 1, 2025, the Director must begin to accept any request for a lien release by an affected employer or building owner. The lien release must be recorded by December 1, 2025.

Lastly, any TDM plans submitted as part of a new development project would be considered null and void. Projects currently in the pipeline under a subdivision or optional method development application, according to Section 42A-26, would no longer be required to obtain approval of a TDM plan to satisfy application requirements.

This packet contains:

Bill 24-25

Sponsor's Memorandum

Circle #

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Bill No. 24-25  
Concerning: Transportation Demand  
Management - Repeal  
Revised: 04/30/2025 Draft No. 1  
Introduced: June 17, 2025  
Expires: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Balcombe and Glass, and Council President Stewart

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**AN ACT** to:

- (1) repeal Article II of Chapter 42A of the Montgomery County Code; and
- (2) amend the law governing transportation demand management in the County.

By repealing

Montgomery County Code

Chapter 42A, Ridesharing and Transportation Management

Article II

Sections 42A-21; 42A-22; 42A-23; 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29, 42A-30, 42A-31, and 42A-32

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Article II of Chapter 42A (Sections 42A-21;42A-22; 42A-23; 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29, 42A-30, 42A-31, and 42A-32) is repealed as follows:**

**Chapter 42A. RIDESHARING [AND TRANSPORTATION MANAGEMENT].**

\* \* \*

**Article II. [TRANSPORTATION DEMAND MANAGEMENT.]**

**Reserved.**

**45A-21. [Definitions.] Reserved.**

[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.

*Bundling of parking* means a requirement by the seller or lessor that a prospective purchaser or tenant purchase or lease a minimum number of parking spaces in the facility as a precondition to buying or leasing space or renewing a lease in a commercial or residential building. Bundling of parking does not include:

- (1) the provision of parking spaces as a component of a sale or lease when voluntarily requested by a prospective purchaser or lessee; or
- (2) a parking space physically integrated with an individual leasable or sales unit if the parking space is dedicated to that unit and can be

directly accessed through that unit such that only occupants of that unit are able to use the space or spaces.

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

*Commute* means a home-to-work or work-to-home trip. A commute may have brief intervening stops, but the primary purpose must be travel between work and home

*Date of final occupancy* means the earlier of:

- (1) the date on which 80 percent of a building or project has been leased or sold; or
- (2) two years after the first final use and occupancy certificate has been issued.

*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 or a contractor, reporting to or assigned to work on a regular basis at a specific workplace controlled by that business or organization, including a teleworker.

*Employer* means any business or government entity, including the County, employing 25 or more employees including contractors assigned to a worksite. Employer does not include:

- (1) a home-based business;
- (2) a business with no employees housed at that work site; or
- (3) any government agency not required by law to follow County



regulations.

*Growth and Infrastructure Policy* means the most recent policy adopted under Section 33A-15.

*NADMS goal* means the specific NADMS percentage goal for peak period commuters in a District or a Policy Area that has been established through a Master Plan, through the Growth and Infrastructure Policy, or through regulation.

*Non-Auto Driver Mode Share or NADMS* means the percent of commuters who travel by modes other than driving an automobile. NADMS includes commuters who travel by transit, vanpool, biking, walking, or connecting to the workplace electronically. NADMS does not include carpool or vanpool drivers, but it does include carpool and vanpool passengers.

*Peak period* means the hours of highest transportation use each workday, as defined in the resolution creating a District, as established in the Growth and Infrastructure Policy or established through a technical study.

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

*Policy Area* means a Transportation Policy Area adopted by the County Council through the Growth and Infrastructure Policy.

*Project-based TDM Plan* means a TDM plan for a new development project.

*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.

*Traffic Mitigation Plan or TMP* means a set of strategies designed to implement TDM at an existing commercial or residential building or by an employer in an existing building.

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

*Transportation Demand Management Plan or TDM Plan* means a set of strategies designed to implement TDM for a new or existing building, a new or existing development project, or an employer.

*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 vehicle that has the capacity for 6 or more passengers in addition to the driver if:

- (1) passengers occupy 50% or more of the seats at any point during the trip; and
- (2) the vehicle is used to transport employees between their residences, designated locations, and their place of employment for 80% or more of the miles the vehicle is driven.

*Workplace* means the place of employment, base of operations, or predominant location of an employee.]

**42A-22. [Findings and purposes.] Reserved.**

[(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 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, promote safety for all users of transportation infrastructure, and improve access to transit, bicycle and pedestrian facilities; and

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

(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, tenants, and the public.

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

(1) make efficient use of existing transportation infrastructure;

(2) increase transportation capacity as measured by numbers of people transported;

(3) reduce existing and future levels of traffic congestion by moving more people in fewer vehicles;

(4) reduce air and noise pollution, and address climate change; and

(5) promote traffic safety together with transit, pedestrian and bicycle safety and access for all users.

(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.]

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

**Reserved.**

[(a) The County Council by resolution may create a transportation management district (TMD) in Red, Orange, or Yellow Policy Areas as defined in the Growth and Infrastructure Policy. A district may be formed from all, or portions of, one or more Policy areas, even if they are not contiguous.

(b) The Department may take actions necessary to achieve effective transportation demand management in each District, on its own or by contract with any employer, transportation management organization, or other party, including:

(1) controlling the use of or limiting public parking, by regulation adopted under method (2);

(2) prohibiting bundling of parking in new developments;

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

(4) adopting traffic and parking control measures;

- (5) providing transit, shuttles, circulator services, or other transportation services;
  - (6) implementing approved transportation-related capital projects;
  - (7) promoting, implementing, and improving existing transit and ridesharing incentives;
  - (8) promoting regional cooperation between the County and other government agencies;
  - (9) creating cooperative County-private sector programs to increase ridesharing and transit use; and
  - (10) conducting surveys, studies, and statistical analyses to determine the effectiveness of and improvements needed to advance transportation demand management plans and employer and building owner efforts.
- (c) In each 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 or separately impose transportation demand management measures as conditions on the Board's approval of development in any District.
- (e) Each District may have a Transportation Management District Advisory Committee if the Executive by regulation decides a Committee is necessary to carry out this Article or if the Council creates a Committee by resolution. The Executive or Council may designate any existing advisory body appointed by the Executive and confirmed by the Council to serve as a Transportation Management

District Advisory Committee. The Executive must appoint and the Council must confirm members of any Advisory Committee. The County must not compensate members of an Advisory Committee for their services. Advisory Committee members, not otherwise public employees as defined in Chapter 19A, are not subject to the financial disclosure provisions of that Chapter.]

**42A-24. [Transportation Demand Management Plans for Employers.]**

**Reserved.**

[(a) *Transportation Demand Management (TDM) Plan for an Individual Employer.*

- (1) The Director must require an employer subject to this Section to submit a TDM Plan meeting the requirements of this Section.
- (2) Upon written request from the Director, an employer must provide the Director with the number of full-time and part-time employees working for that organization by workplace in each Policy Area or District.
- (3) An employer must submit a TDM Plan to the Director if:
  - (A) the employer is in a Red Policy Area under the Growth and Infrastructure Policy and has 25 or more employees reporting to or assigned to that workplace;
  - (B) the employer is in an Orange Policy Area under the Growth and Infrastructure Policy and has 100 or more employees reporting to or assigned to that workplace;
  - (C) the employer is in a Yellow Policy Area under the Growth and Infrastructure Policy and has 200 or more employees reporting to or assigned to that workplace; or
  - (D) the employer is in one of the following Districts and has

25 or more employees reporting to or assigned to a workplace:

Silver Spring TMD;

Friendship Heights TMD

Bethesda TMD

North Bethesda TMD

Greater Shady Grove TMD

(4) The TDM Plan must be consistent with and contribute to the achievement of any NADMS Goal or other commuting goals set in the Growth and Infrastructure Policy, Master Plans, Sector Plans, and any individual project-based goals or goals established in the regulations implementing this Article. The TDM Plan must include strategies required by regulation and other strategies selected by the employer from those permitted by regulation or proposed by the employer and approved by the Director. A TDM Plan may include an alternative work hours program, carpool or vanpool incentives, subsidized transit passes, preferential parking for carpools and vanpools, parking management strategies, peak period or single-occupancy vehicle parking charges, improved transit, bicycle and pedestrian access and safety, telework, and other transportation demand management measures approved by the Director.

(5) Each employer must submit its TDM Plan within 90 days after receiving written notice from the Director that it is required. The Director may extend an employer's time to file a TDM Plan for good cause.

(b) *Consolidated Employer Transportation Demand Management Plans.*

- (1) An employer may submit a consolidated TDM Plan with other employers in the same building or building complex. An owner of a nonresidential building in a District may submit a consolidated TDM 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 and complies with the regulations implementing this Section.
- (c) Actions and assistance to be provided. The Director must:
- (1) offer to help employers prepare TDM Plans;
  - (2) decide if each proposed plan meets the requirements of this Section; and
  - (3) help an employer revise a plan that the Director determines does not meet the requirements of this Section.
- (d) Resubmission of TDM Plan. The Director may require an employer to resubmit a plan that the Director finds inadequate to achieve any Non-Auto Driver Mode Share goals or other commuting goals. Once a plan has been approved, the Director must not require an employer to submit a revised plan that meets the requirements of this Section more than once every two years.
- (e) Annual TDM Plan report. An employer must submit a report on strategies used to implement a TDM Plan, including progress achieved under that plan, to the transportation management organization and the Director on a schedule established by the Director.
- (f) Transportation Demand Management Plan for the Montgomery County Government.
- (1) The Director of the Office of Human Resources, after consulting



with the Director of Transportation, must submit a TDM Plan for County employees to the Chief Administrative Officer with a copy to the Council.

- (2) The TDM Plan must include incentives, policies, or outreach needed to increase the number of County employees commuting to work through modes other than driving an automobile.]

**42A-25. [Transportation Demand Management Plans for Existing Buildings.]  
Reserved.**

[(a) *Transportation Demand Management (TDM) Plans for Existing Non-residential Buildings.*

- (1) The Director may require an owner of a nonresidential building in a District to submit a TDM Plan if:

(A) the Director finds that a plan is necessary to achieve the purpose of this Article; and

(B) the building is not subject to either a traffic mitigation agreement currently in effect or a Project-based TDM Plan under Section 42A-26.

- (2) If an existing non-residential building is subject to this Section, the Director must notify the building owner that a TDM plan meeting the requirements of this Section must be submitted. 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 TDM Plan meeting the requirements established in the Executive Regulations for approval by the Director.

(b) *Transportation Demand Management (TDM) Plans for Existing Multi-Unit Residential Buildings.*

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

(A) the Director finds that a plan is necessary to achieve the purpose of this Article; and

(B) the building is not subject to either a traffic mitigation agreement currently in effect or to a Project-based TDM Plan under Section 42A-26.

(2) If an existing multi-unit residential building is subject to this Section, the Director must notify the building owner(s) that a TDM Plan meeting the requirements of this Section must be submitted.

(3) After receiving notice under this Section, the owner(s) must submit a TDM Plan that meets the requirements established in the Executive Regulations for approval by the Director.

(c) *Actions and assistance to be provided.* The Director must:

(1) offer to help building owners prepare TDM Plans;

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

(3) help the building owner(s) revise a plan which does not meet the requirements.

(d) *Resubmission of TDM Plan.* The Director may require a building owner to resubmit a plan that the Director finds inadequate to achieve any Non-Auto Driver Mode Share goals or other commuting goals.

Once a plan has been approved, the Director must not require a building owner to submit a revised plan that meets the requirements of this Section more than once every two years.

- (e) *Annual TDM Plan report.* A building owner must submit a report on strategies used to implement a TDM Plan, and progress on achievement of goals under that plan, to the transportation management organization and the Department based on a schedule established by the Director.]

**42A-26. [Transportation Demand Management Plans for New Development Projects (Project-based TDM Plans).] Reserved.**

- [(a) *Applicability.* This Section applies to any an owner or applicant for a new development or construction project that submits an application for a proposed subdivision or optional method development, site plan, conditional use or building permit in a District, but excluding any project consisting solely of single family detached housing, townhouses, or a mixture of both. All such applicants must obtain approval from the Department for a Project-based Transportation Demand Management (TDM) Plan. This approval must be obtained prior to the issuance of any building permit by the Department of Permitting Services. Projects subject to this Section include developments:

- (1) in a Red, Orange or Yellow Growth and Infrastructure Policy Area and larger than the minimum sizes shown in subsection (b);
- (2) that do not have a fully-executed traffic mitigation agreement in effect; and
- (3) where the Department decides, under standards adopted by the

Council for the adequacy of transportation, including Non-Auto Driver Mode Share goals and other commuting goals adopted in Master Plans, Sector Plans and the Growth and Infrastructure Policy, that more transportation facilities or transportation demand management measures are necessary to meet the County's commuting goals.

(b) *Levels of Project-based TDM Plans.* An owner or applicant for a new development or construction project may be required to submit a Level 1 TDM Basic Plan , a Level 2 TDM Action Plan, or a Level 3 TDM Results Plan based on the size and location of the project as follows:

(1) An owner or applicant for a project located in a Red Policy Area under the Growth and Infrastructure Policy must:

(A) submit a Level 1 TDM Basic Plan for a project with less than or equal to 40,000 gross square feet; and

(B) submit a Level 3 TDM Results Plan for a project with more than 40,000 gross square feet;

(2) An owner or applicant for a project located in an Orange Policy Area under the Growth and Infrastructure Policy must:

(A) submit a Level 1 TDM Basic Plan 493 for a project with at least 40,000 gross square feet, but less than or equal to 80,000 gross square feet;

(B) submit a Level 2 TDM Action Plan for a project with more than 80,000 gross square feet, but less than or equal to 160,000 gross square feet; and

(C) submit a Level 3 TDM Results Plan for a project with more than 160,000 gross square feet;

(3) An owner or applicant for a project located in a Yellow Policy Area under the Growth and Infrastructure Policy must:

(A) submit a Level 1 TDM Basic Plan for a project with at least 60,000 gross square feet, but less than or equal to 150,000 gross square feet; and

(B) submit a Level 2 TDM Action Plan for a project with more than 150,000 gross square feet.

(4) If an adopted Master Plan or Sector Plan requires a higher Level of Project-based TDM Plan, those Master Plan or Sector Plan requirements override those described in paragraphs (1), (2), or (3).

(5) An owner or applicant for a project with a gross square foot size disproportionate to its impact on traffic (e.g., large floor area warehouses with lower impacts; small floor area food or beverage establishments with higher impacts) may be required to adhere to a Project-based TDM Plan Level that is either lower or higher than otherwise required by its size and location, in accordance with the development approval and consistent with the Executive Regulation implementing this Article.

(c) *Components of Project-based TDM Plans.* The components of each Project-based TDM Plan Level are described in detail in the Executive Regulation adopted to implement these provisions. Each plan must include the components listed below and in the Executive Regulation. The plan must be submitted by the owner or applicant and approved by the Department. Any owner or applicant may choose to comply with the requirements for a higher Level of Project-based TDM Plan.

(1) Level One: A Project-based TDM Basic Plan is not required to

include specific project-based strategies other than providing information, but must implement County-led strategies at the Project and must include:

(A) Appointment of a Transportation Coordinator and Commitment to Cooperate with the Department's Programs. Each owner of a project must designate an individual responsible to assist and cooperate with the Department's efforts to achieve the Non-Auto Driver Mode Share goals and other traffic mitigation and commuting goals. This assistance must include distribution of information on commuting options to the on-site population; coordinating with the Department to conduct on-site commuting-related outreach events; ensuring participation in commuter surveys by the on-site population; attending occasional training sessions for Transportation Coordinators; and other duties included in the Executive Regulation.

(B) *Notification.* Each owner of a project is required to notify the Department in writing within 30 days of receipt of final Use and Occupancy certificate from the Department of Permitting Services of the designated Coordinator's contact information; and within 30 days of any subsequent change in that designation or contact information.

(C) *Access to the Project.* Each owner must provide space on-site by prior arrangement with the Department to allow the Department to promote TDM, including

participation in commuter surveys. Such space need not be exclusively for this purpose but must be suitable for this purpose, as determined by the Department.

(D) *TDM Information.* Displays of TDM-related information must be placed in a location visible to employees, residents, and other project users.

(2) Level Two: A Project-based TDM Action Plan requires a commitment to take specific actions by the owner or applicant to achieve a base Non-Auto Driver Mode Share that is 5% higher than the District's NADMS goal to help the County achieve district-wide commuting goals. The Director may establish a project NADMS goal that is up to 5% higher or 5% lower than the base NADMS goal in Red Policy Areas and up to 10% higher or 10% lower than the base NADMS goal in Orange and Yellow Policy Areas. The plan must include project-based strategies and demonstrate over time that the adopted strategies are contributing toward achievement of the commuting goals, in compliance with the Executive Regulation. A project must be considered to be contributing toward achievement of the district's commuting goals if the biennial surveys of building occupants demonstrate increased on-site Non-Auto Driver Mode Share, or a measurable improvement in an alternative Department-approved metric, if applicable, in proportion to the level necessary to achieve the project's goal by the date established in the project's TDM plan. Once the NADMS goal or other commuting goals have been achieved, the owner must maintain the level necessary to continue

460 achieving the goals. A Project-based TDM Action Plan must  
461 include the Project-based TDM Basic Plan components and the  
462 following:

- 463 (A) *Selection of Strategies.* The owner or applicant must  
464 propose a Project-based TDM Plan that includes required  
465 strategies and selected optional strategies. Additional  
466 strategies may be proposed by the owner or applicant and  
467 may be included in the Project-based TDM Plan if  
468 approved by the Department.
- 469 (B) *Commitment to Fund and Implement the Plan.* The owner  
470 or applicant must commit to fund and implement the  
471 Project-based TDM Plan at an adequate level to  
472 contribute toward achievement of the commuting goals.
- 473 (C) *Self-Monitoring.* The owner or applicant must conduct  
474 self-monitoring, consistent with Department  
475 requirements, to determine if the Project-based TDM  
476 Plan is contributing toward achievement of the District's  
477 goals. The self-monitoring must be conducted in addition  
478 to any monitoring conducted by the Department.
- 479 (D) *Biennial Report.* Progress reports must be provided to the  
480 County in alternating years, in a format consistent with  
481 Department requirements.
- 482 (E) *Addition and/or Substitution of Strategies.* If the  
483 strategies initially selected by the owner or applicant do  
484 not result in the plan contributing toward achievement of  
485 District goals by four years after Date of Final  
486 Occupancy, the Department may require revisions in the



project's plan using other strategies proposed by the owner or applicant. The owner or applicant must agree to implement these revised strategies if required by the Department at a level consistent with the owner's commitment to fund and implement the plan. This process may be repeated until the project demonstrates it is contributing toward achievement of district goals, consistent with the Executive Regulations. Once the NADMS goal or other commuting goals have been achieved, the owner must maintain the level necessary to continue achieving the goals.

(F) *Additional Funding Commitment.* If the project does not contribute toward achievement of the commuting goals by six years after Date of Final Occupancy, the Department may require increased funding by the owner for existing or new TDM strategies to be implemented at the project. The owner must commit additional funds to supplement on-site strategies if required by the Department. The amount of the additional funding must be as established in the Executive Regulation.

(G) *Performance Incentives.* The owner may be eligible for annual performance incentives established by the Department for continued contribution over multiple years toward achievement of commuting goals, including reductions in TDM fees or other financial benefits, as established in the Executive Regulation.

(3) Level Three: A Project-based TDM Results Plan requires a

commitment by the owner or applicant to achieve a base Non-Auto Driver Mode Share that is 5% higher than the District's goal as well as related commuting goals at that project. The plan must include project-based strategies and demonstrate that the plan is achieving the goals established for the project. The Director may establish a project NADMS goal that is up to 5% higher or 5% lower than the base NADMS goal in Red Policy Areas and up to 10% higher or 10% lower than the base NADMS goal in Orange and Yellow Policy Areas. The plan must be submitted by the owner or applicant and approved by the Department. A Project-based TDM Results Plan must include the Project-based TDM Action Plan components and the following:

(A) *Independent Monitoring.* Monitoring by a consultant approved by the Department, to determine whether the project is meeting its goals. This monitoring must be done on a regular basis consistent with the Executive Regulations.

(B) *Addition and/or Substitution of Strategies.* If the strategies initially selected by the owner or applicant do not result in the project achieving its goals by six years after Date of Final Occupancy, the Department may require revisions in the project's plan using other strategies proposed by the owner or applicant. The owner or applicant must agree to implement these revised strategies if required by the Department at a level consistent with the owner's commitment to fund and

541 implement the plan. This process may be repeated until  
 542 the project demonstrates it is achieving its goals, in  
 543 compliance with the Executive Regulation.

544 (C) *Additional Funding Commitment.* If the strategies  
 545 selected by the owner or applicant do not result in  
 546 achievement of the project goals by six years after Date  
 547 of Final Occupancy, the Department may require  
 548 increased funding by the owner for existing or new TDM  
 549 strategies to be implemented at the project. Additional  
 550 increases in funding may be required if the goals have  
 551 still not been achieved by eight years after Date of Final  
 552 Occupancy. The owner must commit additional funds to  
 553 supplement on-site strategies if required by the  
 554 Department. The amount of the additional funding must  
 555 be as established in the Executive Regulation.

556 (D) *Performance Incentives.* The owner may be eligible for  
 557 annual performance incentives established by the  
 558 Department for continued achievement of project goals  
 559 over multiple years, including reductions in TDM fees or  
 560 other financial benefits, as established by the Executive  
 561 Regulation.

562 (d) *Process.* A Project-based TDM Plan must be:

- 563 (1) proposed by the owner or applicant and approved by the  
 564 Department;
- 565 (2) made an express condition of any approval for:
  - 566 (A) subdivision or another plan approval under Chapter 50;
  - 567 (B) site plan or another plan approval under Chapter 59; or

(C) building permit for a recorded lot;

(3) subject to all other review and approval requirements of Chapter 50 and Chapter 59, with approval of the Department required for any revisions to an approved TDM Program; and

(4) recorded in the County's land records.

A Project-based TDM Plan must be required for all such approvals except where equivalent provisions of a fully-executed traffic mitigation agreement for the project are in effect in perpetuity.

(e) *Enforcement.* The Director must enforce the terms of each Project-based TDM Plan. This does not limit the Planning Board's authority to revoke or otherwise enforce any approvals under Chapter 50 or Chapter 59. Where a Project-based TDM Plan is a condition of building permit approval, the Department of Permitting Services must confirm that the TDM Plan has been approved by the Director prior to issuing a building permit.

**42A-27. [Traffic Mitigation Agreements.] Reserved.**

*[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.]

**42A-28. [Commuter survey and related data collection.] Reserved.**

[(a) The Director, after consulting the appropriate Advisory Committee, must conduct a commuter survey, or obtain through other available mechanisms, data on commuting by employees and residents within a defined area. The data must be obtained on a schedule determined by the Director.

(b) The Director, in consultation with the appropriate Advisory

Committee, must prepare a survey or other data collection mechanism as necessary to generate information to:

- (1) create an accurate data base of employee and resident commuting patterns; and
- (2) monitor progress toward reaching any commuting goals set in the Growth and Infrastructure Policy, Master Plans or Sector Plans, as implemented by the Department through Executive Regulations or other adopted policies and procedures.

(c) The Department must distribute the survey to employers; building owners or managers; tenants, condominium and homeowners associations; Transportation Coordinators, 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. The Department may also collect commuting data through other available mechanisms in addition to or in place of the commuter survey.

(d) Each notified employer, building owner or manager, Transportation Coordinator or other entity must distribute, collect, and return the completed surveys, or otherwise provide the required data through other Department-approved mechanisms. Data collected must be provided to the transportation management organization and the Department within the time period established by the Department.

(e) 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 or other data from their target population with the objective of achieving at least a 40 percent compliance rate for an entity with a target population of either 100 or more employees or 100 or more residents and 50 percent for an

entity with a target population of less than 100 employees or less than 100 residents. The Director may require a smaller or larger response rate from a given worksite, building, or project based on requirements for statistical validity.]

**42A-29. [Executive report on Transportation Demand Management.]**

**Reserved.**

[(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 the following information to the extent feasible within the constraints of available resources:

- (1) employee commuting patterns by employer, building 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, bicycle and pedestrian access and safety, and other traffic modifications in or near the district;
- (6) transit use and availability;
- (7) carpool and vanpool use;
- (8) bicycle and bikeshare use;
- (9) use of other transportation modes relevant to analyzing

achievement of commuting goals;

(10) the number of electric vehicle charging stations in the area; and

(11) the source and use of any funds received under this Article.

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

(c) If any commuting goals set in the Growth and Infrastructure Policy are not met eight years after a district is created or by June 30, 2028, whichever is later, the Director must recommend corrective action to the Executive. This action may include additional 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.]

**42A-30. [Regulations.] Reserved.**

[The Executive must adopt regulations under method (2) to implement this Article. The regulations may implement the requirements of this Article in phases.]

**42A-31. [Transportation Demand Management Fee.] Reserved.**

[(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 an applicant, and each successor in interest, for subdivision, optional method development approval, or a building permit.

(2) The Department is authorized to charge a transportation demand management fee adopted by the Council to:

- 676 (A) an applicant for subdivision or optional method approval,  
 677 site plan approval or a building permit in a District; and
- 678 (B) an owner of existing commercial, industrial or multi-unit  
 679 residential developed property in the District, including a  
 680 property where the principal use is a commercial parking  
 681 facility.
- 682 (b) *Use of revenue.* The revenue generated by a transportation demand  
 683 management fee must be used in the District in which the development  
 684 or property subject to the fee is located to cover the cost of:
- 685 (1) administering the District and TDM strategies, and coordinating  
 686 with projects and occupants (including employees and residents)  
 687 within that District or Policy Area, including review and  
 688 monitoring of TDM Plans; and
- 689 (2) any program implemented under Section 42A-23(b), including  
 690 any vehicle or other equipment necessary to carry out the  
 691 program.
- 692 (c) *Rate.* The rate of a transportation demand management fee must be set  
 693 to produce not more than an amount of revenue substantially equal to  
 694 the:
- 695 (1) portion of the cost of administering TDM in the District,  
 696 including the review and monitoring of TDM Plans, reasonably  
 697 attributable to the transportation effects of the development  
 698 project or property subject to the fee; and
- 699 (2) portion of the cost of any program implemented under  
 700 Section 42A-23(b), including any vehicle or other equipment  
 701 necessary to carry out the program, reasonably attributable to the  
 702 transportation effects of the development project or property



subject to the fee.

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

- (1) the gross square feet, 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, the gross square feet 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 property where the principal use is as a commercial parking facility.

(e) *Variation.* The transportation demand management fee and the basis on which it is assessed may vary within each District, between one District and another, and from one building category or land use category to another.]

**42A-32. [Enforcement.] Reserved.**

[(a) The Department must enforce this Article. An employer, owner, building or project manager or other responsible party subject to Section 42A-24 or 42A-25 that does not submit a TDM Plan or required report, comply with required provisions of a plan, or provide survey data consistent with the requirements of Section 42A-28 within 30 days after a second notice has committed a class C violation.

(b) A party to a Project-based Transportation Demand Management Plan under Section 42A-26 who does not comply with the approved plan within 30 days after notice of noncompliance has committed a class A

violation.

- (c) Any party that does not submit required reports on numbers of employees, transportation demand management plans and strategies, Non-Auto Driver Mode Share, progress toward goals, survey results or other TDM-related provisions or measurements on a timely basis has committed a class C violation.
- (d) Any party who falsifies any required data or reports has committed a class A violation.]

**Sec 2. Staggered phase-out of the TDM plan requirement.**

(a) Required notice. By September 1, 2025, the Department must send a notice to each employer, building owner, or responsible party with an existing TDM plan under Section 42A-24 or 42A-25 that:

- (1) explains the phase-out timeline under Section 2 of this Act;
- (2) confirms that the site is no longer subject to a TDM Plan under Chapter 42A;
- (3) provides guidance on the next steps to release any applicable lien recorded in the County's land records; and
- (4) confirms that any traffic mitigation agreements executed under Chapter 42A before this Act took effect are considered terminated and no longer remain in effect.

(b) Lien release.

- (1) Beginning on October 1, 2025, the Director must accept any lien release request submitted by an affected employer or building owner.
- (2) By December 1, 2025, the Director must record in the County's land records all the lien releases received under Section 2 of

756                    this Act.

757    **Sec 3. Effective date; transition.**

758            (a)    The amendments under Section 1 of this Act must take effect on  
759                    December 31, 2025.

760            (b)    New development projects under review. An applicant who, before the  
761                    effective date of this Act, submitted for consideration a building or  
762                    development project to the Department, as part of a subdivision or  
763                    optional method development application, under Section 42A-26,  
764                    would no longer need approval of the TDM plan to meet the  
765                    requirements for the application.



## MONTGOMERY COUNTY COUNCIL

MARILYN BALCOMBE  
COUNCILMEMBER  
DISTRICT 2

ECONOMIC DEVELOPMENT COMMITTEE  
TRANSPORTATION AND ENVIRONMENT COMMITTEE

### MEMORANDUM

June 10, 2025

TO: County Council

FROM: Councilmember Marilyn Balcombe, District 2

SUBJECT: Bill xx- 25, Transportation Demand Management - Repeal

Colleagues,

The Transportation and Environment (T&E) Committee is in the process of reviewing the proposed regulations for the County's Transportation Demand Management (TDM) program. The purpose of the program is to increase Non-Auto Driver Mode Share (NADMS) in specific areas defined in the law.

After working through the most recent amendment to the TDM law and the corresponding regulations, the T&E Committee is proposing a full repeal of the TDM law (Chapter 42A, Ridesharing and Transportation Management - Article II). Draft legislation will be introduced on June 17, 2025.

In assessing the proposed repeal, it is important to understand recent legislative history as the determining factors pertinent to the proposed repeal:

- **Legislation** - *Bill 36-18, Transportation Management – Transportation Demand Management Plan – Amendments*, was introduced November 13, 2018, by the Council President at the request of the County Executive and approved on December 3, 2019. The bill greatly expanded the number of employers required to submit TDM plans, established increased requirements on new and existing commercial buildings, and established new requirements for residential multi-family buildings.
- **Regulations** - Draft regulations were not introduced until February 5, 2024, four years after Bill 36-18 passed. Given the complexity of regulations and the impact on businesses, the T&E Committee included the Economic Development Committee in the discussion and Council extended the deadline for approval of the regulations.
- **IG Reports** – The County's Inspector General (IG) conducted an audit of the TDM program in 2016 and reported inadequate oversight of compliance from employers related to TDM plans, inadequate survey results, and departmental non-compliance in publishing biennial reports as mandated by County Code. Nine years later, the IG conducted a **second** audit that showed no improvement in the program and determined that significant deficiencies remain. ([OIG Publication #25-09](#), March 2025).

- ***Commuting Patterns*** – Most recent surveys of the commuting patterns indicate that we have far surpassed our NADMS goals due to the significant change in commuting patterns post-pandemic.

It is important to note that the County should continue to have NADMS goals and should continue to encourage residents to walk, bike, and/or take transit. However, given the significant change in our telework environment, the increasing complexity of the TDM program, and the reported inefficiency of the existing program, repealing the existing TDM law is the best path forward. This repeal will give MCDOT an opportunity to look at the NADMS goals and determine how to best achieve those goals given the significant changes in commuter behavior.

Attached is the draft of the legislation that would sunset the current TDM program. We respectfully request your consideration for co-sponsoring this legislation. Thank you for your time and attention to this matter.