

M E M O R A N D U M

November 12, 2025

TO: Transportation & Environment (TE) Committee

FROM: Ludeen McCartney-Green, Legislative Attorney

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

PURPOSE: Worksession – to receive a Committee recommendation

Bill 24-25, Transportation Demand Management - Repeal, sponsored by Lead Sponsors Councilmembers Balcombe, Glass, and Council President Stewart, and cosponsored by Councilmembers Alborno and Sayles, was introduced on June 17, 2025. A public hearing was held on July 8. An initial Transportation and Environment (TE) committee worksession was held on October 20. A second worksession will be held on November 17.

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.¹

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

¹ 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

goals, enhance the efficient use of transportation infrastructure, and promote sustainability of existing and future development, implemented commuter surveys, including residential building type, and added more enforcement mechanisms for the Montgomery County Department of Transportation (MCDOT).

Under existing law, also referred to as the NextGen TDM, 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 36-18² 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.”³

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 reviewing the draft executive regulations in July 2024, 4 years after the legislation was 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.⁴ For more information, a detailed staff report is available [here](#).

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

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

⁴Many 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

On June 24, 2025, the Council voted to disapprove ER 8-21. Despite the regulations being voted down. The TDM program remains in effect and is still required under County Code to fulfill certain requirements (requesting TDM plans, commuter survey, annual reports, assessment of fees). See resolution [here](#).

Audit Committee Worksession – October 8

Previously, the Office of Legislative Oversight conducted a review of the TDM program in 2009 and recommended several recommendations to improve the program's efficiency, including reporting annually on commuting goals; better aligning the goals with approved master plans and G&I policy. Several years later, the OIG conducted an audit that showed deficiencies and lack of reporting still remained. ([OIG Publication #25-09](#), March 2025).

The Council's Audit Committee held a worksession on October 8 to discuss the Office of Inspector General (OIG) report: [Review of the Transportation Management Districts \(OIG Publication #25-09\)](#). The OIG's investigation evaluated the administration and effectiveness of the TDM program. The investigation resulted in 2 findings: 1) MCDOT did not ensure that employers complied with TDM plans or commuter-related surveys; and 2) MCDOT did not publish or provide affected entities with biennial progress reports as mandated by County law.

OIG provided 3 recommendations for MCDOT: 1) develop a strategy to increase participation by employers with submission of TDM plans due to lower response rates; 2) develop and implement strategies to increase the collection of data from commuter surveys and enforce penalties, as warranted; and 3) publish biennial reports. The next report will be available by December 2025.

Representatives of MCDOT agreed with the OIG's findings regarding non-compliance with Code requirements. They also expressed challenges with receiving low responses from employer TDM plans and commuter surveys. The method of direct surveys of employers was not as effective. Additionally, there were some interruptions with the data collection of commuter patterns due to the COVID-19 pandemic. MCDOT did highlight that outreach and community education have been consistent and continue to align with program goals.

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, **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

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).

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.

SUMMARY OF PUBLIC HEARING

A public hearing for Bill 24-25 was held on July 8, during which 3 speakers testified. Additionally, the Council received several pieces of written testimony. Testimony was provided both in support of and in opposition to the bill.

Several speakers, including representatives from the private sector and institutions like Suburban Hospital, strongly supported repealing the current TDM law. They testified that the existing requirements are outdated, overly burdensome, and often place responsibility for regional transportation outcomes on individual employers or projects—outcomes that are largely outside their control. Specific concerns included the complexity and cost of compliance, the inefficiency of requiring project-by-project evaluations, and the imposition of requirements (such as bike lockers, shuttle services, and annual reporting) that do not directly contribute to the core mission of organizations like hospitals. Supporters suggested that future TDM efforts should be structured as public services, offering incentives rather than penalties, and focusing on countywide strategies rather than individual project mandates.

The County's Department of Transportation (MCDOT), on behalf of the County Executive, expressed concern about the potential negative impacts of repealing the TDM law without a replacement. They emphasized that legislative requirements for TDM activities have historically helped the county reach more people and achieve mode shift goals aligned with climate and transportation objectives. Executive staff warned that nullifying existing developer TDM plans, and traffic mitigation agreements could have legal and equity implications, as many of these plans were conditions for development approval in lieu of physical improvements. Further, they proposed that a streamlined legislative framework would be better to maintain relationships between the County and employers/building owners, which would allow for effective data sharing and coordination on transit options and incentives without the enforcement and reporting burdens of the current law.

In addition, the Council received a letter from the Planning Board expressing its support for TDM initiatives. © 33

SUMMARY OF IMPACT STATEMENTS

Fiscal Impact. The Office of Management and Budget (OMB) found that the enactment of Bill 24-25 would cause an annual loss of \$1 million in revenues for the County Government, as it would eliminate the Transportation Demand Management program fees. Additionally, in the first year, the County would incur \$50,000 in operating costs. The total net loss to the County over the next six years would be \$6,000,050. © 62

The Office of Legislative Oversight (OLO) found that for each of **the Racial Equity and Social Justice Impact Statement, Climate Assessment, and Economic Impact Statement**, there was not enough available information or time to make accurate climate, economic, or racial equity assessments for Bill 24-25.

In its **Economic Impact Statement**, OLO did state that “repealing the fees and requirements associated with the program would benefit certain employers by reducing operating expenses.”

TE COMMITTEE WORKSESSION – OCTOBER 20

Participating in the discussion from the Montgomery County Department of Transportation (MCDOT) were Chris Conklin, Director; Haley Peckett, Deputy Director; and Sandra L. Brecher, Commuter Services Chief. Additionally, Dave Anspacher, Countywide Planning Division Chief from the Planning Department, participated.

Councilmember Balcombe requested that, if the repeal is approved, the Department of Transportation coordinate with the County Executive to defer fines for employers until the matter is resolved, expressing concern about issuing fines based on a law that may soon be repealed.

Councilmember Balcombe requested confirmation from Planning that, following repeal, whether TDM plans or initiatives could still be required as a condition of development approval for certain applications. Mr. Anspacher and Mr. Conklin noted that the current requirements of the TDM could still be used as a condition of development approval, noting that they would want to check with counsel to ensure this is correct.

Councilmember Glass requested clarification on the process for terminating existing TMAGs and TDM Plans, and whether a blanket approach or case-by-case process would be more appropriate. The Committee discussed, but did not vote on, a potential amendment to the uncodified language of the bill (Section 2) to address the legal concerns regarding the termination of TMAGs and TDM plans. The amendment would require MCDOT to send notices to each known employer, building owner, or responsible party, and allow them to request termination of their agreement or plan via a prescribed form.

ISSUES FOR THE COMMITTEE'S DISCUSSION

1. Process for review or termination of existing TMAGs and TDM Plans.

Traffic Mitigation Agreements (TMAGs) were recorded in land records and tied to subdivision or development approvals. After the 2019 "NextGen TDM" law, new TMAGs were no longer executed, and TDM Plans were now executed and recorded. As of today, both agreements and plans are still enforceable and remain in effect. This begs the question of whether there is a process to eliminate or terminate the existing agreements or plans.

TMAGs – Request for amendment or termination.

At the November 4 TE Committee worksession, Council staff discussed the legal concerns related to existing TMAGs, noting that even if the TDM law is repealed, the County could not unilaterally terminate these **three-party agreements** (between the developer, MCDOT, and the Planning Board). Termination requires consent from all parties, including Planning, before a formal release process could be initiated. The nature of the agreements is very complex. There is no one-size-fits-all approach because some agreements are based on conditional approval during Planning's review of a project. **The best approach would be for the responsible party that would like to request an amendment or termination of its existing agreement should contact MCDOT/M-NCPPC to determine if they are eligible and the requirements needed to amend or terminate the plan.**

Montgomery Planning provided additional information on the process for termination. (See, © 79).

TDM plans – Request for termination.

Separately, there are existing TDM plans that were **two-party agreements** (between the developer and MCDOT). If any existing TMAGs or TDM Plans were not required as a condition of development approval (essentially a non-three party agreement), then it is at the discretion of the Director of MCDOT whether to terminate the agreement/plan. **Here, the party responsible (developer/owner) may submit on a form provided by MCDOT a request for review and termination of said agreement.**

Section 2 – Language Related to Review for Amendment of Termination of TMAGs and Plans.

Councilmember Balcombe may want to discuss amendments related to Section 2 (uncodified portion of the bill) that would address how MCDOT would carry out the transition of the existing agreements/plans after the repeal goes into effect. Note that highlights in red are amendments by Councilmember Balcombe to existing Council staff language. The amendments include the following:

Amend lines 723-756, as follows:

- (a) Notice requirement. Within 90 days after the effective date of this Act, the

Department must provide, **to the extent feasible**, notice to each known employer, building owner, or responsible party with an existing Traffic Mitigation Agreement (Agreement) or Transportation Demand Management Plan (Plan) that pursuant to Article II, Chapter 42A, due to the repeal of Sections 42A-24, 42A-25, and 42A-26, the Agreement or Plan **may be eligible for termination or amendment**. The Department will cooperate with any employer, building owner, or responsible party that requests termination of the Agreement and Plan and release of an encumbrance recorded in Land Records pursuant to subsection (b).

(b) **Amendment or termination request.**

- (1) An employer, building owner, or responsible party subject to an Agreement or Plan under Article II of Chapter 42A may request **an amendment or termination of its Agreement or Plan using a form prescribed by the Department. However, if an Agreement or Plan was required as a condition of development approval or established through a three-party agreement, then the termination must be executed or released by all other parties before the County may terminate the Agreement or Plan.**
- (2) The Department must provide instructions to any responsible party requesting termination and removal of an encumbrance created by an Agreement or Plan,

Decision Point: Whether the Committee approves the adoption of the amendment to alter Section 2 (uncodified section) of the Bill?

2. If the County's TDM program is repealed, does Planning have the authority to require certain TDM initiatives as a conditional approval during the development review process?

Montgomery Planning provided a detailed letter to the Committee regarding whether it had the authority to carry out TDM program initiatives or requirements absent a TDM requirement no longer codified in law (See, © 79). Essentially, under Section 50.4.3.J.4.c of the County Code,⁵ Planning Board is vested with the authority to require TDM mitigation as a part of the development approval process.

⁵ *If the Board finds, under criteria and standards adopted by the Council, that additional transportation facilities or traffic mitigation measures are necessary to ensure that transportation facilities will be adequate to serve the subdivision and to meet the transportation goals established by a master plan or the Growth and Infrastructure Policy for that portion of the County, the subdivision plan may also be subject to the execution of a Traffic Mitigation Agreement (TMAg) at the discretion of the Board.*

Even though Planning maintains the requisite authority, there are administrative concerns. To ensure Planning and MCDOT understand roles, responsibilities, and optimize the utilization of staff resources, Council staff recommend that a memorandum of understanding (MOU) is executed between the Departments. The MOU would ensure there is clear coordination when a development project is under review by Planning, and the project may need to include TDM initiatives; Planning may want to collaborate with MCDOT to elicit feedback and receive other recommendations before providing conditional approval.

3. Savings Clause.

Council staff agree with the Planning's recommendation (See, *Montgomery Planning Letter* at © 79) to include a provision in the Bill that would express the Council's intent to preserve Planning's authority to require TDM agreements as an approval condition under Chapters 50 and 59 – essentially - implementing a savings clause. A savings clause is used to protect existing authorities or actions from being invalidated because the law was repealed. It saves the Planning Board's powers granted elsewhere in law. Council staff recommend the following amendment:

Insert after Section 2:

Section 3. Savings Clause. Nothing in this Act must be construed to limit, impair, or repeal the authority of the Planning Board under Chapters 50 or 59 of the County Code to impose transportation demand management measures, transportation management agreements, or other related agreements or plans as part of the Planning Board's regulatory authority.

Decision Point: Whether the Committee approves the adoption of the saving clause as described above?

4. Effective Date.

Councilmember Balcombe or MCDOT may raise an amendment for the Committee to change the effective date of the bill to next year, which aligns with the beginning of the fiscal calendar.

Amend lines 758 – 759, as follows:

Section 4. Effective Date.

- (a) The amendments under Section 1 of this Act must take effect on [[December 31, 2025]] July 1, 2026.

Decision Point: Whether the Committee approves the adoption to move the effective date to July 1, 2026?

Next Steps: Whether to approve Bill 24-25 for enactment, as amended by the Committee?

<u>This packet contains:</u>	<u>Circle #</u>
Bill 24-25	1
Sponsor's Memorandum – June 10	31
Planning Board Letter – July 17	33
County Executive Memorandum Re: Bill 24-25	34
Sponsor's Memorandum – October 14	61
Fiscal Impact Statement	62
Racial Equity and Social Justice Impact Statement	66
Economic Impact Statement	69
Climate Assessment	72
MCDOT Letter – November 7	75
Planning Board Letter – November 12	79

Bill No. 24-25
Concerning: Transportation Demand
Management - Repeal
Revised: 6/23/2025 Draft No. 2
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

Lead Sponsors: Councilmembers Balcombe and Glass, and Council President Stewart
Co-Sponsors: Councilmembers Albornozy and Sayles

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;

- 163 (5) providing transit, shuttles, circulator services, or other
- 164 transportation services;
- 165 (6) implementing approved transportation-related capital projects;
- 166 (7) promoting, implementing, and improving existing transit and
- 167 ridesharing incentives;
- 168 (8) promoting regional cooperation between the County and other
- 169 government agencies;
- 170 (9) creating cooperative County-private sector programs to increase
- 171 ridesharing and transit use; and
- 172 (10) conducting surveys, studies, and statistical analyses to
- 173 determine the effectiveness of and improvements needed to
- 174 advance transportation demand management plans and
- 175 employer and building owner efforts.
- 176 (c) In each District, sole source contracts may be signed with, or funds
- 177 granted to, one or more transportation management organizations to
- 178 carry out transportation demand management programs that the
- 179 Department could otherwise carry out, under Chapter 11B.
- 180 (d) The Department and the Planning Board may, in accordance with this
- 181 Article and other applicable law, jointly or separately impose
- 182 transportation demand management measures as conditions on the
- 183 Board's approval of development in any District.
- 184 (e) Each District may have a Transportation Management District
- 185 Advisory Committee if the Executive by regulation decides a
- 186 Committee is necessary to carry out this Article or if the Council
- 187 creates a Committee by resolution. The Executive or Council may
- 188 designate any existing advisory body appointed by the Executive and
- 189 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

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

(C) *Additional Funding Commitment.* If the strategies selected by the owner or applicant do not result in achievement of the project 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. Additional increases in funding may be required if the goals have still not been achieved by eight years after Date of Final Occupancy. 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.

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

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

- (1) proposed by the owner or applicant and approved by the Department;
- (2) made an express condition of any approval for:
 - (A) subdivision or another plan approval under Chapter 50;
 - (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.



July 17, 2025

The Honorable Kate Stewart

President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Subject: Bill 24 – 25 – Transportation Demand Management – Repeal

Dear Council President Stewart,

On behalf of Montgomery Planning, I am writing to express our support for Transportation Demand Management (TDM) initiatives as a vital component of our county's transportation strategy.

TDM policies help reduce congestion, improve air quality, and enhance public health by promoting alternatives to single-occupancy vehicle travel. These approaches, including TDM marketing, transit benefit programs, and parking cash out programs, align with the goals of *Thrive Montgomery 2050*.

Incorporating TDM into our planning processes ensures smarter land use, more resilient infrastructure, and a transportation system that reflects the values of our residents and the future we envision for our county. As part of Bill 24-25, we encourage the Council to consider replacing Chapter 42A of the County Code with streamlined legislation that authorizes the Montgomery County Department of Transportation to continue to conduct TDM activities. We also support language that allows transportation demand management measures as conditions of development application approvals.

As the Transportation and Environment (T&E) Committee advances work on this bill, we look forward to collaborating with the Committee to better understand the implications for Planning Board approvals and any existing Traffic Mitigation Agreements (TMAs) and TDM Plans. While some development applicants may have satisfied their initial development-related TDM conditions, many TMAs and TDM Plans are ongoing commitments related to business operations and continue to remain in effect.

Sincerely,



Jason K. Sartori
Planning Director




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

July 7, 2025

TO: Kate Stewart, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Transportation Demand Management Legislation

On June 17, 2025, the Montgomery County Council Transportation & Environment Committee introduced Bill 24-25 to repeal Chapter 42A, Article II, Transportation Demand Management (TDM) of the County Code, in its entirety. TDM has the mission to reduce use of single-occupancy vehicles and shift trips to sustainable modes. TDM has been proven through rigorous analyses as a highly cost-effective strategy to achieve the mode shift that the County and the region need to meet our transportation, environmental and climate goals.

The Executive Branch understands the Council's goals to simplify requirements and reduce the burden on County businesses, and we believe that completely repealing Chapter 42A, Article II goes too far. We feel strongly that repeal should not be undertaken without a plan to replace provisions that are crucial to the continued effectiveness of these programs.

Since the 1990s, TDM strategies have been incorporated into development projects and adopted by employers, often with minimal costs. Adoption of these strategies has contributed to the County's efforts to manage growth while reducing traffic congestion and environmental and climate impacts. The County's TDM program achieves a host of benefits through partnerships with businesses and developers: promoting transit, supporting investment in pedestrian and bicycle infrastructure, reducing demand for parking, and protecting communities from cut-through traffic. This partnership from the private sector is critical, as it allows new residents and employees to establish sustainable, multimodal transportation patterns when they move to the County or start a new commute. The cooperative approach between the public and private section that is a hallmark of effective TDM allows the County to manage transportation impacts of growth that cannot be accomplished by the public sector alone.

The Department's Commuter Services Section has been recognized for successful administration of the County's TDM program. In FY24, Commuter Services outreach teams made more than 11,400 direct contacts with employers and conducted a total of 103,000 total contacts with employers using a variety of other outreach methods. The program has been recognized by MWCOC's Commuter Connections program with the "Employer Services Outreach Team Award" three times in the past five years, and multiple times prior to that. Their work has resulted in many County employers receiving regional recognition awards for programs they have implemented to reduce commuting impacts, with at least one County employer receiving a regional award each year for the past ten years. The work of MCDOT and the Commuter Services Section informs the recommendations in this memo.

Key Elements of the Current TDM Law

We acknowledge that the County has revised priorities since 2019, when the most recent changes (dubbed "NextGen TDM") were made a part of the Code. However, NextGen TDM achieved several objectives that are still relevant today.

The 2019 law was developed based on input from a wide range of stakeholders over a two-year process. There were three key goals the development community expressed interest in accomplishing, including:

- Streamline the process: The process for completing and executing the developer Traffic Mitigation Agreements (TMAs) for new developments had at times required extensive multiparty negotiations. The new approach restructured the process into a performance-based checklist where the developer selects the strategies they determine will enable them to reach the goals for that project.
- Provide flexibility: The development community wanted more options for TDM strategies, so they could tailor their choices to the type of project, the geography, and the availability of transportation alternatives. The process now enables a wide range of TDM strategies to be selected, along with other options that can be requested by the applicants.
- Ensure fairness: Developers wanted to be sure that each project within a given area had comparable and consistent requirements. They wanted those requirements to be clear and predictable, instead of being negotiable, including the maximum costs the project would need to expend for their program.

There was also a fourth goal for the process expressed by many stakeholders:

- Increase Effectiveness: Representatives of County residents, and those concerned about environmental and climate impacts, wanted more assurance that the strategies adopted for new projects would enhance the County's ability to achieve its transportation goals.

The resulting NextGen TDM legislation represented the input from expert consultants and stakeholder consensus as to best way to meet these goals.

Concerns with the Current TDM Law

We are aware that there are a number of concerns or confusion about provisions in the current TDM law, causing Council to consider its repeal. To our understanding, the chief concerns or questions are those outlined below.

1. Confusion about requirements for employers or developers: The current law requires developers to produce performance-based TDM Plans, meaning they must demonstrate achievement of Non-Auto Driver Mode Share (NADMS) goals using TDM strategies that they select. To maintain predictability of costs, the law requires a set commitment for the owner to contribute each year to on-site TDM programs. Increases to these contributions only would take effect in later years if goals are not achieved. The current law also describes Employer-based TDM plans, which do not include performance requirements, fees, or requirements to expand programs. In essence, these are two separate programs with different provisions.
2. Expanded geographic areas for employer-based TDM Plans: NextGen contemplated expanding the geographic areas in which TDM would be implemented. Employers, whether located in a TMD or elsewhere, have no requirements to achieve specific goals with their TDM plans. They are only required to do a TDM Plan, which is intended to help them learn about TDM strategies that could impact how their employees commute. MCDOT has established an online system to make it easier to complete these checklist-type plans and to file the Annual Reports required.
3. Application of the law to residential buildings: Developers of multi-unit residential buildings in TMDs that are over a certain size (depending on the Policy Area) are required under current law to complete a TDM Plan. The basic requirements for these Plans are fairly simple and virtually the same as for commercial buildings. Residential TDM Plans are meant to help the County partner with residential buildings on effective TDM strategies; they do not require owners or managers to determine how their residents are commuting, beyond distribution of the County-led commuter survey.
4. Concerns about the Commuter Survey: The Code requires MCDOT to “conduct a commuter survey, or obtain through other available mechanisms, data on commuting by employees and residents within a defined area.” The survey is primarily administered through a unique link sent to employers and managers of residential projects in TMDs, and due to the requirement for a unique geographic area or building, it is difficult to gather the data via other means. The Code states employers/residential managers “must make a good faith effort” to obtain the 40 percent or 50 percent participation rate as an “objective.” These percentages were provided to Council during discussions on the NextGen TDM bill as a means to balance feasibility with statistical validity for smaller

survey participants. MCDOT has not enforced survey compliance based on achieving these percentages, given they are not requirements. The most recent survey concluded on June 30, 2025, and the next survey will not be required until FY27. Implementing the survey has been complicated and obtaining effective participation is challenging. We support removal of legislative requirements for a commuter survey and would work with Council to find more efficient and creative ways to collect mode share data.

5. Enforcement and imposition of fines. The Enforcement section of the current law calls upon MCDOT to enforce all provisions of Article II, with class C violations for failing to comply with certain provisions – including filing Employer TDM Plans and Reports. To date, the Department has continued to work with non-compliant employers to build positive relationships, get information out to employees, and adopt meaningful TDM strategies. The Department has viewed enforcement as a last resort, to be used only when an employer is uncooperative over an extended period of time.

However, the recent audit by OIG focused on employer TDM Plans and Reports and made formal recommendations to proceed with enforcement. MCDOT has agreed to advise OIG regarding proposed enforcement actions for delinquent employers by the end of August 2025.

The above-cited elements of the current law appear to be among the most concerning to members of the Council. The Department is prepared to address these provisions and to submit the new Code language that does not include employer plan requirements, TMDs, a commuter survey, or enforcement.

Executive and Department Concerns with Bill 24-25

Removing the Countywide legislative framework for TDM communicates to businesses, residents, climate advocates, and transportation partners that the County is deprioritizing sustainable modes of transportation and regional partnerships to reduce demand for automobile travel. Without a legislative underpinning, the practical elements of managing a TDM program will be much more challenging, from maintaining coordination with employers and developers to obtaining information from employees about their commuting needs and preferences. Further, the elimination of TDM fees will cut approximately \$1 million per year from outreach activities within parts of the County with the greatest potential to use transit and active transportation modes. This amount constitutes roughly half of the TMDs' Management Districts' outreach contracts annual budget.

MCDOT has been managing the TDM Program under the Commuter Services Section since the 1980s, under varied legislative frameworks. Over time, the Department has found that having a legislative requirement for TDM activities makes a significant difference in terms of the number of people we can reach. Prior to the requirement for employer cooperation in 2002, our outreach teams struggled to obtain contacts with employers. Efforts to provide information or initiate contact were often met with “No Soliciting” and “No time/No interest” responses. While the County can still try to work with these employers and developers absent legislative requirements,

the County's historic experience and the experience of peers suggest that far fewer entities are willing to partner without a legislative basis. MCDOT is concerned that its ability to maintain strong relationships with building owners and employers, who can in turn disseminate information to employees and residents, will be greatly diminished without TDM being an element of the County Code.

MCDOT is also concerned with the negative and inequitable impacts that arise from nullifying existing developer TMAs and TDM plans. In many cases, these plans were included as a condition of development approval, in lieu of a built improvements to offset traffic impacts. For a number of years prior to the NextGen TDM Code revisions, TMAs were the mechanism through which developer TDM requirements were memorialized. A total of about 140 TMAs were approved between the year 2000 and when the new law went into effect. In addition, there have been a total of 13 new developer TDM Plans approved since the NextGen legislation went into effect. These plans are being administered in those projects without any indication of issues causing concerns. Outreach staff are assisting employers, employees and residents in these projects to understand area travel options, keep up to date on transit changes, and benefit from other programs and services available.

The Office of the County Attorney has noted some legal concerns with Bill 24-25, as introduced. First, the requirement to terminate existing agreements in the uncodified sections could be difficult to implement. The County cannot unilaterally terminate an agreement absent a reservation of the right to do so, and OCA would need to review individual agreements to determine if this right was reserved. The ability to release a lien is similarly not usually unilateral; the County would need the signature of the other party to release. Finally, the County needs agreement from the Planning Board to terminate some agreements and release liens, depending on the individual terms. At minimum, this would require additional investigation to quantify the impact, feasibility, and level of effort.

TDM is also included as Action T-9 in the County's 2021 Climate Action Plan (CAP). The action calls for expansion of TDM to cover "most new projects throughout the County, [which] will be required to demonstrate how they will promote non-auto modes." We are concerned that Bill 24-25 removes resources for promoting alternative transportation without any alternative approach to reducing reliance on single-occupancy vehicles.

Finally, including a TDM program in the County Code communicates that mode shift is a shared responsibility. Reaching Non-Auto Driver Mode Share (NADMS) goals cannot be done by government alone; the County needs partnerships from the private sector and residents to effectively meet our goals. Achieving NADMS goals is our County's and our region's lowest-cost way to reduce congestion and greenhouse gas emissions, to ensure the major investments we are making in transit are well-used, and to reduce the need for other costly infrastructure to accommodate traffic.

Outline of Proposed Legislation

As noted above, retaining TDM in the County Code provides important benefits as is important to our ability to operate an effective program. While the current code is complex and potentially confusing, it has been implemented without significant difficulty and the Council has, as an option, retaining the current code. However, if it is the Council's intent to repeal Chapter 42A, Article II, Executive Branch staff is prepared to propose a more streamlined legislative framework for TDM that would consist of the following elements and purposes:

1. **Maintain legislative basis for TDM.** A brief background section establishes the goals of TDM, defines included elements of TDM, and establishes authority for MCDOT to manage TDM, and for the Montgomery County Department of Permitting Services (DPS) and the Planning Board to condition approvals on inclusion of TDM strategies.
2. **Allow TDM as a quantified mitigation measure for trip reduction in Development Review.** Many iterations of the County's growth policy and planning documents have identified TDM as the highest-priority transportation impact mitigation measure. If trip reduction through a TDM plan is a defined element of a project's review under the GIP, ongoing implementation of the TDM plan should be enforceable. Regionally and nationally, most peer jurisdictions require TDM elements as a condition of development approval. Enforcement authority will be shared by the Planning Board and DPS, similar to other development permits and approvals.
3. **Offer an option to transition existing TDM plans and agreements.** TDM plans and agreements included as a condition of approval in existing development plans and traffic mitigation agreements may be transitioned to a new form. In many cases, these elements were included in lieu of built improvements and should be maintained as a means to achieve adequate public facilities.
4. **Retain TDM fees.** MCDOT recommends retaining TDM fees for developments built after 2006 in certain Policy areas as a means to support MCDOT's outreach program and to secure commitment from the owner/applicant to support TDM programs.
5. **Eliminate Defined Transportation Management Districts(TMDs).** Transportation Management Districts are defined in the Code and adopted by Council Resolution. The definition of these specific geographies also adds to potential confusion and administrative burden of TDM. The TMDs overlap with other similar geographies including the Urban Districts, Policy Areas, and Parking Lot Districts. Each TMD also has an advisory committee that requires significant MCDOT staff time but has not proven to be directly impactful to achieving NADMS goals. TDM Outreach is likely to be concentrated in these areas with or without formal designation as TMDs, and the County can rely on other defined geographies and advisory boards. Outreach staff would still be free to solicit input from Urban District/Citizen Advisory Boards, Master Plan

Implementation Committees and Chamber of Commerce committees without the legislative requirement for a Transportation Management District.

Requirements around the DMV Region

As noted, many of our regional peers have some version of TDM requirements, especially in areas that are near Metrorail stations or other transit-rich locations. The Appendices include a summary of TDM programs around the metropolitan Washington region, demonstrating that employers and developers that seek to develop in this region already expect some level of TDM during or post-development. For example, Fairfax County requires developments near Metrorail stations to pay TDM fees(\$0.10 per square foot for commercial space and \$0.05 per square foot for residential spaces) and report annually on mode share. The City of Alexandria requires developers to submit TDM plans with periodic reporting, and the City charges TDM fees for developments over 20 residential units or 10,000 square feet of commercial space. See Appendix C for more information.

Summary

Montgomery County's Transportation Demand Management program has been recognized as a leader in the region, and its programs directly support the County and State's commuting, environmental and climate goals. TDM is an important component of an overall multimodal strategy for managing transportation and growth impacts in the County. While some of MCDOT's TDM programs may be able to continue without a legislative framework, we recommend maintaining the County's official commitment to TDM and its ability to reduce traffic and related environmental and climate impacts – either by amending the current law or by adopting a streamlined TDM approach in legislation that simplifies the program and incentivizes partnerships across public and private sectors.

cc: Cecily Thorne, Chief of Staff to the Council President, Montgomery County Council
Craig Howard, Executive Director, Montgomery County Council
Richard S. Madaleno, Chief Administrative Officer, Office of the County Executive
Ken Hartman-Espada, Assistant Chief Administrative Officer, Office of the County Executive
Tricia Swanson, Director of Strategic Partnerships, Office of the County Executive
Christopher Conklin, Director, Department of Transportation
Haley Peckett, Deputy Director of Policy, Department of Transportation

APPENDICES

Documents Related to Transportation Demand Management (TDM)

Appendix A –Developer Level 3 TDM Plan

Sample of Level 3 Plan Using e-Template Provided by MCDOT

(Level 2 Plan Template uses same template with fewer requirements)

Appendix B – Employer TDM Plan

Sample Plan & Annual Report Using e-Template Provided by MCDOT

Appendix C – TDM Provisions in Other Regional Jurisdictions

Appendix A –Developer Level 3 TDM Plan

Sample of Level 3 Plan Using e-Template Provided by MCDOT

(Note: Level 2 Plan Template is similar but with fewer requirements)

Appendix A - Sample of Developer Level 3 TDM Plan - Using e-Template Provided by MCDOT

<p>A Level 3/Results Plan, as shown here, is used for projects over 40K GSF in Red Policy Areas or over 160K in Orange Policy Areas. Ch 42A of the County Code requires Level 3 Projects to ultimately achieve the NADMS goals for that area.</p>	<p>A Level 2/Action Plan uses the same format shown here, but has fewer requirements. It is used for projects 80-160K GSF in Orange Policy Areas, or over 160K GSF in Yellow Policy Areas. Ch 42A requires Level 2 Projects to contribute toward achieving the NADMS goals for that area.</p>
<p>Transportation Demand Management Plan for New Development Project (Project-based TDM Plan) -- Level 3/TDM Results Plan</p>	
<p>PART I. PROJECT DATA</p>	
<p>Development Name</p>	<p>ABC Development Group LLC</p>
<p>Address Line 1:</p>	<p>0000 Main Street</p>
<p>Address Line 2:</p>	<p>Bethesda, MD</p>
<p>Commercial Name (i.e., Solaire, Flats, etc.)</p>	
<p>Development Applicant's Name (include DBA information)</p>	
<p>TMD &/or Master Plan Area:</p>	<p>Bethesda</p>
<p>Transportation Policy Area:</p>	<p>Bethesda CBD</p>
<p>Subarea/MSPA:</p>	<p>1</p>
<p>Number of Phases:</p>	
<p>Type/Uses (Mixed, Residential, Commercial):</p>	<p>Mixed Use</p>
<p># Dwelling Units</p>	<p>180</p>
<p>GSF Residential</p>	<p>180,000</p>
<p>GSF Commercial - Office</p>	<p>20,000</p>
<p>GSF Commercial - Commercial/Retail/Restaurant</p>	<p>9,000</p>
<p>Total Gross Square Footage (GSF):</p>	<p>209,000</p>
<p>Parking:</p>	
<p>Minimum # required by ZO</p>	<p>120 spaces</p>
<p># Parking spaces for Residents</p>	<p>120 spaces</p>
<p># Parking spaces for Retail or Non-Resident Use</p>	<p>0 spaces</p>
<p>PART II. TDM PLAN LEVEL REQUIREMENT</p>	
<p>Section 42A-26 (b) (1) (B) An owner or applicant for a project located in an RED Policy Area under the Subdivision Staging Policy must submit a Level 3 RESULTS Plan for a project with more than 40,000 gsf.</p>	<p>LEVEL 3 RESULTS</p>
<p>Projects with less than or equal to 40,000 gsf Must achieve a base NADMS that is 5% higher than District's goal</p>	
<p>TMD NADMS Goal</p>	<p>55%</p>
<p>Plus 5%</p>	<p>5%</p>
<p>GOAL</p>	<p>60%</p>
<p>APPLICANT NOTES & QUESTIONS</p>	

PART III. ACKNOWLEDGEMENT OF TDM PLAN REQUIRED COMPONENTS		APPLICANT NOTES & QUESTIONS
<p>TDM Plan Components per County Code 42A-26 (c) (1) (2) and (3). A Project-based TDM Results Plan must include the Project-Based TDM Basic Plan components # 1-4 below, and TDM Action Plan components 5-11 below. See Executive Regulation 8-16 for details.</p>		<p>Acknowledged The X indicates an understanding of the requirements.</p>
<p>1. <u>Appointment of a Transportation Coordinator/Contact Person.</u> Owner or applicant must designate an individual responsible for assisting and facilitating the Department's efforts to achieve the NADMS goals and other traffic mitigation and commuting goals established for the area. 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; attending occasional training sessions for Transportation Coordinators and submitting an annual TDM Plan report.</p>		
<p>2a. <u>Notification (Initial).</u> Owner or applicant must notify the Department of the designated Coordinator's contact information within 30 days of receipt of final U&O certificate.</p>		X
<p>Contact</p>		
<p>Contact Person's Name:</p>		John Smith
<p>Contact Person's Employer (e.g., Management Company Name):</p>		ABC Development Group LLC
<p>Email Address:</p>		John.Smith@abcdevgroup.com
<p>Telephone Number(s):</p>		240-000-0000
<p>Mailing Address Line 1:</p>		0000 Main Street
<p>Mailing Address Line 2:</p>		Bethesda, MD
<p>2b. <u>Notification (changes).</u> Owner must notify the Department of changes to the Coordinator's contact information within 30 days of changes to contact information; and within 30 days of any subsequent change in that designation or contact information.</p>		X
<p>3. <u>Access to the Project.</u> Owner must provide space on-site by prior arrangement with the Department to allow the Department to promote TDM, including participation in commuter surveys.</p>		X
<p>4. <u>TDM Information.</u> Displays of TDM-related information must be placed in a location visible to employees, residents and other project users.</p>		X
<p>5. <u>Selection of Strategies.</u> The Plan must include project-based strategies and demonstrate that the plan is achieving the goals established for the project.</p>		X

PART III. ACKNOWLEDGEMENT OF TDM PLAN REQUIRED COMPONENTS, CONT'D.		APPLICANT NOTES & QUESTIONS
6. Commitment to Fund and Implement Plan. The owner or applicant must commit to fund and implement the Project-based TDM Plan at an adequate level to contribute toward achievement of the commuting goals.	X	
7. Self-Monitoring. The owner or applicant must conduct self-monitoring, consistent with Department requirements, to determine if the Project-based TDM Plan is contributing toward achievement of the District's goals. The self-monitoring must be conducted in addition to any monitoring conducted by the Department. Monitoring by a consultant approved by the Department, to determine whether the project is meeting its goals. Monitoring must be done on a regular basis consistent with the Executive Regulations.	X	
8. Biennial Report. Progress reports must be provided to the County in alternating years, in a format consistent with Department requirements. First report is due 2 years after date of Final Occupancy.	X	
9. Independent Monitoring (after 6 years). In the 6th year following Date of Final Occupancy the owner/applicant must retain an independent consultant to collect data, monitor program implementation, and otherwise provide a comprehensive review of the program, including funds expended and results achieved. The consultant must be selected by the owner and approved by MCDOT.	X	
10. Addition/Substitution of Strategies (after 6 years). If strategies initially selected do not result in the project achieving its goals by 6 years after date of Final Occupancy, the Department may require revisions in the project's plan using other strategies proposed by owner or applicant. Owner/applicant must agree to implement the revised strategies if required by the Department at a level consistent with 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 commuting goals have been achieved, the owner must maintain the level necessary to continue achieving the goals.	X	
11. Additional Funding Commitment (after 6 years). If the strategies selected by the owner or applicant do not result in achievement of the project 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. Additional increases in funding may be required if the goals have still not been achieved by eight years after Date of Final Occupancy. 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	X	
12. Performance Incentives. The owner may be eligible for annual performance incentives established by the Department for continued achievement of project goals over multiple years, including reductions in TDM fees or other financial benefits, as established by the Executive Regulations.	X	

PART IV. SELECTED TDM STRATEGIES		
Additional or new strategies may be added by developers, project owners, applicants, or MCDOT, with approval by the Department.		
MENU OF OPTIONAL STRATEGIES	By checking this box, Applicant commits to implementing the strategy selected	HOW STRATEGY WILL BE IMPLEMENTED & WHEN (within approx. how many weeks or months of opening?)
A. Parking		
1. Provide less than maximum # spaces allowed by Zoning Ordinance	X	SAMPLE RESPONSE: The Applicant commits to provide no more than the 130 maximum spaces for the multi-family rental units. The Applicant will further reduce the total number of parking spaces to up to 120 spaces.
2. Unbundle Parking from Lease Arrangements	X	SAMPLE RESPONSE: There will be a separate charge for multi-family tenants that want parking in the building.
3. Provide Market-Rate Parking for Employees and Residents		
4. Provide Parking Cash Out (Payment to employee for not utilizing parking space)		
5. Provide Carpool/Vanpool Parking - at least 2 spaces for every 100 spaces in preferential locations near main entrances, elevators or stairs		
6. Provide Discounted Parking Spaces for Carpools/Vanpools		
7. Charge Premium for Peak Period or Single-Occupancy Vehicle Parking		
8. Charge Premium or Surcharge for Entry or Exit during Peak Periods		
9. Require Daily Payment - no monthly passes or other monthly arrangements		
10. Provide no "Early Bird Special" parking rates		
11. Provide No Parking Validation for Retail or Restaurant Patrons - or if parking validation is offered to retail or restaurant patrons provide equal amount in the form of a transit or biking benefit.	X	
12. Provide EV charging spaces (if not already required by Zoning Ordinance)		SAMPLE RESPONSE: A total of four (4) spaces with fully equipped EV charging stations are being provided. The Zoning Ordinance only requires two (2) spaces capable of being equipped for EV charging. In addition to the four (4) EV charging stations, the Applicant has designed the garage to have sub-meters so that tenants can plug in their own EV chargers if there is additional demand.
13. Offer discounted EV charging	X	

PART IV. SELECTED TDM STRATEGIES, cont'd.		
MENU OF OPTIONAL STRATEGIES	SELECTED By checking this box, Applicant commits to implementing the strategy selected	HOW STRATEGY WILL BE IMPLEMENTED & WHEN (within approx. how many weeks or months of opening?)
B. Transit Support		
1. Subsidized Transit Passes (e.g., SmartBenefits, etc.) for employees or as part of leasing incentives	X	SAMPLE RESPONSE: The Applicant will offer on-site residents and employees WMATA SmartTrip Cards with up to \$150 (or half of current Federal maximum) of value. The SmartTrip cards will be provided within 30 days of lease signing or employee hiring. Commercial tenant will offer tenant employees the same subsidy, in a dollar amount to be matched by the tenant. These strategies will be implemented during the first six (6) years following initial occupancy and will apply to tenant's signing their first and renewed leases at the project.
2. Provide Transportation Services (e.g., buses, circulators, shuttles, micro-transit)		
3. Provide Mid-Day Short Term Car Services and Support for First Mile/Last Mile Connections (i.e., pay for carshare service memberships, taxi/Uber/Lyft/Transportation Network Company (TNC) fare		
4. Provide Covered Walkways for paths leading from bus stops to entrance and benches at the covered bus stops		
5. Provide Port-cochere, Weather-protected Entrance area (for use by transit shuttle buses, and other multi-passenger vehicles only) and prohibit use by SOVS except for ADA-accessible vehicles		
6. Develop a Walker Escort Program (for movement to and from transit stops to workplace or resident entrances, on-site and/or off-site parking facilities)		
7. Participate in or Fund a Private Emergency Transportation Program (such as an enhanced Guaranteed Ride Home Program)		
8. Offset Vehicle Trips by Supporting Shuttle Buses to connect other locations to public transit and for midday travel to retail destinations		
9. Support, Subsidize or Offer Discounted Fares on commuter bus, subscription bus and vanpool services		
10. Adopt Gamification Techniques or Applications to promote use of transit (some applications run contests and other promotions to award points, gifts or other rewards to those using transit)	X	SAMPLE RESPONSE: The Transportation Coordinator will use commuter gamification incentives offered through RideAmigos, IncentTrip, or similar platform. Employees and residents will be encouraged to register. At least 2 events per year will focus on transportation options and incentives. Game elements will include points and badges and prizes to motivate participants through friendly competition. The 1st event will occur within 1 year of opening.
C. Employee & Resident Incentives		
1. Spend \$50 – 100 per Employee or Resident per Year on Incentives to use on non-auto modes of commuting or mid-day travel		
2. Spend \$100 - \$200 per Employee or Resident per Year on incentives to use on non-auto modes of commuting or mid-day travel		
3. Spend \$200 or More per Employee or Resident per Year on incentives to use on non-auto modes of commuting or mid-day travel	X	SAMPLE RESPONSE: The Applicant will offer tenants WMATA SmartTrip Cards with \$265 (or current Federal maximum) of value. The SmartTrip cards will be provided within 90 days of lease signature to tenants that elect to receive this incentive. This strategy will be implemented during the first six (6) years following initial occupancy and will apply to tenant's signing their first lease at the project.

PART IV. SELECTED TDM STRATEGIES, cont'd.		
MENU OF OPTIONAL STRATEGIES	SELECTED	HOW STRATEGY WILL BE IMPLEMENTED & WHEN (within approx. how many weeks or months of opening?)
D. Bicycle Commute Support		
1. Offer a Bicycle Reimbursement Benefit (monthly, quarterly or annual)		
2. Develop a Biking Buddy-type Program to mentor new riders and match riders with similar origins and destinations		
3. Construct End-of trip Facilities such as showers and locker rooms, or allow use of existing facilities	X	SAMPLE RESPONSE: For on-site employees that bike to work more than twice a week, the Applicant will reimburse the employee for \$50 in bike-related expenses per year in the form of a gift card to a sporting goods or bike shop.
4. Arrange for Employees to Use Shower Facilities at Nearby Fitness Centers if on-site showers and lockers do not exist		
5. Offer Free or Discounted Memberships to Nearby Fitness centers for those using transportation to commute	X	SAMPLE RESPONSE: An arrangement has been made with the gym next door so that employees that bike to work as verified by the employer, can use shower facilities. In exchange, the gym will be advertised on the digital lobby monitor.
6. Pay for Bicycle Education and Safety Classes (monthly, quarterly or annually)		
7. Provide Rainy Day Parking Spaces for cyclists in covered parking facility or area		
8. Reimburse for Purchase of Safety Gear (vests, reflectors, etc.)		
9. Create an Earn-a-Bike program (participants log a certain number of commutes in one year to earn a bicycle)		
10. Create an Indoor Bike Parking Area that is secure and locked where bicycles can be stored	X	SAMPLE RESPONSE: An indoor bike parking area is shown on the Certified Site Plan.
11. Provide Bicycle Repair Station On-site (possibly within a bike storage room)	X	SAMPLE RESPONSE: A bike repair kiosk will be installed in the bike storage room. This will be done prior to leasing.
12. Offer Valet Parking for Bicycles		
13. Provide Special Access to Indoor Parking Facility for Bikes - e.g., dedicated elevator or ramp		
14. Provide or Support Creation of a "Bike Station" facility for bike storage and repair, provision of showers, sale of equipment, etc.		
15. Provide Corrals for Bicycle and E-scooter parking and offer rental and purchase discounts to employees and residents		
16. Provide Discounted Annual Bikeshare Memberships to all employees		
17. Adopt Gamification Techniques or Program Applications to Promote Use of Cycling to Commute. Some applications run contests and other promotions to award points, gifts and other perks to cyclists.		SAMPLE RESPONSE: The Transportation Coordinator will use commuter gamification incentives offered through RideAmigos, IncentTrip, or similar platform. Employees and residents will be encouraged to register. At least 2 events per year will focus on transportation options and incentives. Game elements will include points and badges and prizes to motivate participants through friendly competition. The 1st event will occur within 1 year of opening. The TC will assist residents in downloading an application as a part of the lease signing process.
18. Offer Free or Discounted Memberships to Nearby Fitness Centers for those using bicycle transportation to commute	X	

PART IV. SELECTED TDM STRATEGIES, cont'd.			
MENU OF OPTIONAL STRATEGIES		SELECTED	HOW STRATEGY WILL BE IMPLEMENTED & WHEN approx. how many weeks or months of opening?
E. Pedestrian Commute Support		By checking this box, Applicant commits to implementing the strategy selected	(within
1. Offer a Walking Shoe Reimbursement (monthly, quarterly or annually).			
2. Develop a Mentorship Program for New Walking Commuters and offer a "Walk Buddy"-type Program to match walkers with similar origins and destination.			
3. Improve Sidewalks and Paths to Facilitate use by people using wheelchairs, walkers, strollers and hand carts.			
4. Provide Shade-covered Benches around the property.			
5. Ensure Pathways leading to and from transit stops and other transportation options are well-lit and well-maintained.			
6. Provide Security Call Stations, Buttons or Phones along paths where no adjoining uses are accessible, or where security may otherwise deter use.			
7. Adopt Gamification Techniques or Program Applications to promote use of walking as a commute mode. Some applications run contests and other promotions to award points, gifts and other perks to walkers.		X	SAMPLE RESPONSE: The Transportation Coordinator will use the COG IncentTrip application to promote walking as a mode of commute transportation. Prizes will be awarded for longest commutes by foot, for example.
8. Reimburse for Safety Gear Purchases (such as vests, reflectors, etc.)		X	SAMPLE RESPONSE: Residents and employees enrolled in any of the gamification programs will be eligible for reimbursement of safety gear up to \$25 per person per year.
9. Provide Amenities Onsite to reduce the need to make a vehicle trip (i.e., convenience retail, coffee shop, nail salon, dry cleaning, convenience retail, etc.).		X	SAMPLE RESPONSE: A local coffee shop and convenience food store have signed leases for retail space in the building.
10. Provide Daycare Onsite or Nearby.			
G. Telework and Alternative Work Schedule Programs			
1. Allow Employees (for whom it is feasible) to Alter Work Schedules on a case-by-case or regular basis. Compressed work week arrangements, flex-time, or other Alternative Work Schedules can be offered by employers.		X	SAMPLE RESPONSE: On-site employees for whom it is feasible will be allowed to use alternative work schedules on a case by case basis.
2. Allow Employees to Telecommute and provide support services and technology.		X	SAMPLE RESPONSE: Employees that support services related to leasing or rental will be allowed to telecommute.
3. Allow Employees to Count Time Spent Traveling by Transit to Work Toward Total Work Hours if they work while commuting.			
4. Require Tenants to Allow Telecommuting for Employees for whom it is feasible.			

PART IV. SELECTED TDM STRATEGIES, cont'd.		
MENU OF OPTIONAL STRATEGIES	SELECTED By checking this box, Applicant commits to implementing the strategy selected	HOW STRATEGY WILL BE IMPLEMENTED & WHEN approx. how many weeks or months of opening? (within)
H. Technology Support		
1. Purchase or Reimburse for Purchase of Smartphone or Tablet mobile applications (including in-app purchases) that provide information on non-SOV transportation options, real-time transit information, and help commuters keep track of commuter incentive rewards, etc.		
2. Pay for provision or improvement of broadband access at employee or resident home locations to facilitate telework.		
3. Develop an Employee Commute Intranet Site with links to schedule for non-auto transportation options, locations of Park & Ride facilities, rideshare matching sites, trip planning tools, bike maps, FAQs, etc.	X	SAMPLE RESPONSE: An Employee Commute page will be included on the e-portal site for employees. The page will include a link to Commuter Services, Metro, Ride On and MCDOT webpages.
4. Install Voice-activated Transit Screens for Real Time transit, maps, alerts and updates.		
5. Install Pedestrian and Cyclist Counters and Displays to show level of pedestrian and cyclist activity around property.		
I. Marketing and Outreach Support		
1. Sponsor County, State, and Regional Events (such as Bike to Work Day, Car Free Day, Walk & Ride, Walktober, etc.)		
2. Hold Commuter Information Events to be conducted in tandem with development- or employer-related events or activities.	X	SAMPLE RESPONSE: The Applicant will provide up to \$1,000 annually toward sponsorship of events for the first six (6) years following occupancy. The Applicant will coordinate with MCDOT to select appropriate events to sponsor each year.
J. New Options Identified or Created by Developer or Employer		
This category includes all types of programs and actions not previously identified in sections above that, in the judgement of MCDOT, are likely to be successful in persuading employees, residents, patrons and visitors to use alternative modes of travel, particularly during peak periods.		

PART V. REVISED OR SUBSTITUTED TDM STRATEGIES		
A. REVISED STRATEGY OPTIONS/CATEGORIES	Acknowledged The X Indicates an understanding of the requirements.	HOW REVISED STRATEGY WILL BE IMPLEMENTED & WHEN
County Code Section 42A-26 (c) (3) (B): If the strategies initially selected by the owner/applicant do not result in the project achieving its goals by 6 years after Date of Occupancy, the Department may require revisions in the project's plan using other strategies proposed by the owner/applicant.	X	
<i>Actual Strategies TBD...</i>		
Parking...		
Transit Support...		
B. ADDITIONAL FUNDING COMMITMENT		
County Code Section 42A-26 (c) 3 (C): If the strategies selected by the owner/applicant do not result in achievement of the project goals by 6 years after date of Final Occupancy, the Department may require increased funding by the owner for existing or new TDM strategies to be implement at the project. Additional increases in funding may be required if the goals still have not been achieved by 8 years after Date of Final Occupancy.	X	
C. PERFORMANCE INCENTIVES (To Be Determined)		
County Code Section 42A-26 (3) (D): The owner may be eligible for annual performance incentives established by the Department of continued achievement of project goals over multiple years, including reductions in TDM fees or other financial benefits, as established by the Executive Regulations.		
Performance Incentive Option A - TBD		
Performance Incentive Option B - TBD		

PART VI. APPROVALS, SIGNATURES & ADDITIONAL REQUIREMENTS	
A. MCDOT APPROVAL	
Name: Christopher R. Conklin	
Title: Director	
Signature:	
Date:	
B. Owner or Applicant Name(s):	
Representative(s) Name:	
Title:	
Signature:	
Date:	
C. TDM PLAN RECORDATION: Owner must record this TDM Plan in the Land Records of Montgomery County as notice that the obligations of this Plan must bind the Owner and Owner's successors and assigns, to the extent permitted by law. Deed reference for this TDM Plan must be reflected on the record plat unless previously recorded.	
DATE RECORDED AT LAND RECORDS:	
LIBER FOLIO:	
Copy of Recorded document must be sent to: MCDOT Director's Office, Commuter Services Section, 101 Monroe Street, 10th Floor, Rockville, MD 20850	
Or via email to: Commuter.Services@montgomerycountymd.gov	
D. ASSIGNMENT: This TDM Plan is assignable, in whole or in part, by Owner. Notification of assignment with signed Assignment Agreement must be provided by Owner to MCDOT. Owner's successor in interest or assignee must complete and sign the section below, indicating their obligation to be bound by the provisions of the TDM Plan.	
ASSIGNMENT AGREEMENT:	
I, _____, successor in interest and/or assignee of Owner, hereby agrees to be bound by the provisions of the TDM Plan for _____ (insert name of development) dated _____ (insert date TDM Plan was signed by MCDOT).	
Representative Name:	Title:
Signature:	Date:
Name of Assignee:	
Contact Person:	
Address:	
City, State, ZIP:	
Email Address:	
Phone Number(s):	

Appendix B – Employer TDM Plan

Sample Plan & Annual Report Using e-Template Provided by MCDOT

Sample Employer Transportation Demand Management (TDM) Plan and Annual Report

Note: Required TDM Strategies for Employer Plans are numbers 1-6 with asterisks, and are shown on Page 1. Additional strategies are optional and shown on pages 2-3. Employers may select from those or adopt other optional strategies.

To complete your TDM Plan: Fill in the “Employer Plan” field for each strategy with an asterisk (*). Then fill in any additional “Employer Plan” entries on pages 2 & 3 under “Optional TDM Strategies” if other strategies are being implemented or considered.

To submit an Annual Report, please complete the “Employer Annual Report” field next to each “Employer Plan” entry.

Employers can submit their TDM Plans and Annual Reports online through their account at:
<https://apps.montgomerycountymd.gov/MCDOTTrafficMitigationPublic/Loginemployer.aspx>

Required TDM Strategies – Items 1 - 6			
No.	TDM Strategy	Employer Plan	Employer Annual Report
1 *	Contact person -- Designated person to receive and distribute information. Notification provided when changes occur.	Mary Jenkins, Executive Assistant, 301-444-4444 maryjenkins@abc.com We will notify the TMD in writing of any changes in this information.	The new contact is Tracy Smith, Office Manager. 301-444-4455 tracysmith@abc.com
2 *	Distribute Information -- Transit/pooling/other commute alternatives distributed/posted regularly (furnished by TMD). Must include regional Guaranteed Ride Home (GRH) Program and ADA information.	Information on transit/ carpooling/other commute alternatives is posted regularly in the employee break area. We will promote the GRH program and provide ADA information with brochures for each.	Information about transit, carpooling and other commute alternatives that the TMD sends us is posted in the break room. We replace outdated materials with newer information when we receive it.
3 *	Facilitate County/TMD staff presentations -- To employees and HR/Administrative staff on commuter information & alternatives on a periodic basis. Planned with by arrangement with Contact person or others.	We hold office meetings periodically and will invite TMD staff to present information at the meetings. We will inform employees when TMD staff holds a “Commuter Information Event” in our building.	We held 4 Commuter Information Events in 2024, one in each quarter of the year. One of those was during our annual Benefits Fair.
4 *	Commuter Survey -- Distributed to employees (short survey of transportation-supplied by TMD). Please describe your approach to gaining participation for your employees.	We will distribute the link to the online survey to employees and offer small incentives to complete it.	Survey reminders were presented at staff meetings w/ request to be completed the same day. We offered gift card incentives during the last survey.
5 *	Permanent display area -- For TMD-provided bus schedules and other worksite-related transportation information.	We plan to display a transit map and brochure in our employee break area.	We have a transit map displayed in the cafeteria area along with a permanent brochure holder for schedules in the HR office.
6 *	Annual Report -- Compile information on yearly TDM activities and submit Annual Report.	We will keep on with our TDM activities and submit an Annual Report.	The files are maintained by Tracy Smith. She is also responsible for submitting the Annual Report.

Menu of Optional TDM Strategies			
8	Attendance at free CSS-sponsored meetings/workshops permitted for designated contact person	We will allow Tracy Smith to attend free CSS-sponsored meetings/workshops permitted as her schedule permits.	Ms. Smith attended the Smart Benefits session in April 2024.
9	Information on commuting alternatives provided to new employees (TMD can provide materials and/or attend orientations)	We will put brochures and other information provided by the TMD into our New Employee Orientation packages.	Two new employees were hired in 2024 & received brochures & other info in New Employee Orientation packages.
11	Free or reduced rate parking for car/vanpools offered to employees		We do not offer free or reduced rate parking for car/vanpools at this time.
12	Preferred location and/or reserved parking for car/vanpools offered to employees	We provide carpool and vanpool spaces in preferred spots close to the building	A new vanpool formed this year is using the preferred parking.
13	Provision of car sharing space in a highly visible location within an on-site parking facility.		We do not provide a car sharing space in our garage but there is one in a garage one block away that we encourage employees to use.
14	Provision of car sharing incentives, including paying part or all membership costs, rental costs, or similar incentives		We do not offer car sharing incentives at this time but plan to budget for this next year.
15	Provision of bikesharing incentives, including paying part or all of membership costs. This can be accomplished by becoming a "Corporate Member" of Capital Bikeshare	Our company has become a Gold-Level Corporate Member of Capital Bikeshare	2024 – Our company has 25 employees participating in Capital Bikeshare under our Gold-Level membership
16	Bike amenities at worksite, such as racks, lockers and showers (TMD may be able to supply)	Our building has bike racks for employees to use.	Our building has bike racks & several of our employees bike to work occasionally.
17	Transit/pedestrian amenities at worksite, e.g., sidewalks, benches, etc.	There is a Ride On bus stop with a shelter a block from our office. A sidewalk leads from the bus stop to our door. We make sure the sidewalk is clear of snow or debris.	We cleared the sidewalk of snow two times in 2024.
18	Carpool matching for employees (as part of free region-wide matching program, or can be onsite only)	We do not offer carpool matching for our employees but encourage them to contact our TMD representative for information.	Employees interested in pooling are directed to COG's online ride matching system and also to our TMD reps.
19	Alternative work schedules. Indicate which one(s) you offer: Flex time, Jobsharing,	We will explore alternative work schedules.	We offer flex time and have begun exploring the possibility of offering telework.

	Compressed Work Week or Telecommute/Teleworking		
20	Tax-free monthly transit & vanpool subsidies provided to employees.	We will participate in the SmartBenefits program and offer up to the federal tax-free maximum of \$325/month.	We began participating in the WMATA Smart Benefits program in April of 2023 and had an average of 50 employees receiving benefits monthly.
21	Maryland State Commuter Tax Credit for employers	We will explore participation in the State's tax credit program.	We have begun participating in the State Commuter Tax Credit program and receive a significant tax credit each year to offset our commuter benefits costs.
22	Pre-tax payroll deduction for transit costs offered to employees (saves employer and employee money)		We hope to provide pre-tax payroll deduction within the next 2 years.
23	Transit passes offered for purchase at worksite (at full or reduced price)		We do not sell SmarTrip cards at work but we provide information about where to purchase them.
24	Subsidize employee parking and transit equally (if employee parking is currently subsidized, offer equal subsidy for transit costs)		We do not subsidize parking for employees.
25	Air Quality Action Days - participation (regional program to alert people to dangerous air quality days)		We distribute any information on Air Quality Action Days that we receive.

Employer's Information

Submitted by:	Tracy Smith, Office Manager, ABC Corporation
---------------	--

H:\TransPolicy\Commuter Services\NextGen TDM\Templates & Forms\Sample Employer TDM Plan & Annual Report.docx

Appendix C – TDM Provisions in Other Jurisdictions in the Region

Summary of Transportation Demand Management (TDM) Programs Washington D.C. Region

Arlington County, VA

Arlington County integrates TDM into its site plan approval process. Through the Commuter Services program, developers are required to implement TDM measures including real-time transit displays, bicycle parking, and transit incentives. The County also funds outreach and monitoring efforts to support long-term trip reduction goals.

Fairfax County, VA

Fairfax County uses a site-specific approach to TDM, with requirements based on whether the project falls within the Tysons or non-Tysons areas. In Tysons, Fairfax County employs proffers tied to rezoning applications to establish TDM goals for developers. These typically include trip reduction targets and financial contributions toward TDM services. Surveys and compliance reviews are used to monitor progress and enforce commitments. Similar but less stringent requirements apply in non-Tysons areas. Requirements for payments into incentive funds and remedy funds apply in many other areas, depending upon distance from Metro and other factors.

City of Alexandria, VA

The City of Alexandria requires developers to submit TDM plans as part of the development review process. Their Transportation Management Program (TMP) focuses on reducing vehicle trips through strategies such as transit subsidies, bike infrastructure, and shared mobility programs. Alexandria also requires monitoring and periodic reporting of TDM performance.

Washington, DC

The District's TDM program is operated through goDCgo, an initiative led by the District Department of Transportation (DDOT). DC requires TDM plans for large developments, particularly under the zoning code's transportation impact review process. Employers and property managers are encouraged to offer transit benefits, bike facilities, and flexible work schedules.

Prince George's County, MD

Prince George's County promotes TDM primarily through planning policy and developer conditions. While there is no countywide mandate for employer-based TDM, new developments in transit-oriented areas may be required to implement commuter benefit programs or shuttle services.

Anne Arundel County, MD

Anne Arundel County's TDM activities are generally project-specific and linked to developments near key corridors. There is currently no formalized countywide TDM ordinance, though developers in growth areas are encouraged to consider TDM measures such as bicycle access and transit-friendly design.

Howard County, MD

Howard County implements TDM through its Downtown Columbia Plan and other planning tools. In Downtown Columbia new developments are required to submit TDM statements that include vehicle trip reduction targets and TDM actions to be taken. Elsewhere the County encourages reduced vehicle use by supporting employer commute programs, ride-matching, and infrastructure for walking and biking.

Summary of Transportation Demand Management (TDM) Fees and Charges

Jurisdictions in the Washington Region

Montgomery County faces competition from regional and national peers, and MCDOT understands the need to remain competitive in attracting and retaining businesses and residents. However, TDM fees are a standard practice among a number of our regional peers, especially for areas that are close to transit hubs. Below are several samples of fees or other charging policies in the region:

Fairfax County, VA: Requirements for projects in Tysons Corner mandate \$0.05 per SF of residential space and \$0.10 per SF of commercial space, alongside additional payments for incentive funds (\$0.02 per SF), remedy funds (\$0.30-\$0.40 per SF), and penalty funds (\$0.05-\$0.10 SF). New projects in other areas outside of Tysons and within 1.5 miles of Metro stations are likewise responsible for paying all but the penalty funds, though at lower rates, and projects beyond that must pay into incentive funds. Annual reporting on progress is also required.

Howard County, MD: Maple Lawn, a large mixed-use project in Howard County, requires fees of \$0.10 per SF of commercial space and \$30 per year per residential unit, applicable to all developments in the Maple Lawn area.

Prince George's County, MD: While Prince George's County does not directly impose TDM fees, County code outlines a non-compliance fee that may be levied if a property owner fails to comply with TDM agreements. This fee is based on the cost of providing a public bus seat daily per employee and includes administrative fees not exceeding 15%.

City of Alexandria, VA: Transportation management plans in the City of Alexandria employ fees of \$0.27 per SF of retail space, \$0.34 per SF of commercial space and \$109.01 per residential unit. This applies to developments with over 20 residential units or 10,000 SF of commercial space, which includes office, retail, academic, and laboratory space.

Washington, D.C.: The Washington, D.C. Parking Cashout Law requires employers to offer benefits that encourage employees to use alternative transportation or pay a fee. Employers can offer pre-tax transit benefits, tax-free transit subsidies, or employer-provided transportation. Employers who choose not to offer these benefits must pay a Clean Air Compliance fee of \$100 per month for each employee offered a parking spot.

The chart below summarizes the fees and charges identified in jurisdictions discussed here.

Jurisdiction	Commercial	Residential	Industrial	Incentive Fund	Remedy Fund	Penalty Fund	Other
Tysons Corner, Fairfax County, VA	\$0.10 per SF	\$0.05 per SF	--	\$0.02 per SF, commercial & residential	\$0.40 per SF commercial, \$0.30 per SF residential	\$0.10 per SF commercial, \$0.05 per SF residential	Non-Compliance Fee \$100/Day
Non-Tysons Developments, Fairfax County, VA Within 1-1.5 miles from Metro	--	--	--	\$0.02 per SF, commercial & residential	\$0.20 per SF commercial, \$0.10 per SF residential	--	Non-Compliance Fee \$50-75/Day + TMA Membership Required
Non-Tysons Developments, Fairfax County, VA Beyond 1.5 miles from Metro	--	--	--	\$0.01 per commercial SF or residential DU	--	--	TMA Membership Required
Maple Lawn, Howard County, MD	\$0.10 per SF	\$30 per year per unit	--	--	--	--	--
Prince George's County, MD	--	--	--	--	--	--	Non-Compliance Fee: Based on cost of providing a public bus seat daily per employee; administrative fees of up to 15%
City of Alexandria, VA	\$0.34 per SF (office), \$0.27 per SF (retail)	\$109.01 per unit	\$0.16 per SF	--	--	--	\$54.39 per hotel room
Washington, D.C.	--	--	--	--	--	--	Clean Air Compliance Fee: \$100 per month per employee offered a parking spot

H:\TransPolicy\Commuter Services\TDM Research\TDM Programs in Region & Nation\Regional Jurisdictions TDM Fee Summary.rv.docx



MONTGOMERY COUNTY COUNCIL

MARILYN BALCOMBE
COUNCILMEMBER
DISTRICT 2

ECONOMIC DEVELOPMENT COMMITTEE
TRANSPORTATION AND ENVIRONMENT COMMITTEE

MEMORANDUM

October 14, 2025

TO: Transportation and Environment Committee

From: Councilmember Marilyn Balcombe

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

As we look forward to deliberating Bill 24-25, Transportation Demand Management – Repeal, there will be several issues that need to be addressed. If Bill 24-25 is approved and we transition away from the current Transportation Demand Management (TDM) program, the next step will be to decide what, if any, next steps are taken by the Council.

Although Bill 24-25 repeals all future TDM requirements, it does not address existing Transportation Mitigation Agreements / TDM Plans, leaving them intact. I suggest the Committee discuss whether the existing plans should continue and whether any changes should be allowed. I concur with Council staff's recommended approach that would allow employers to request a release from the agreement.

Additionally, as was mentioned during last week's Audit Committee session, and as part of the Inspector General's report, the Montgomery County Department of Transportation (MCDOT) can issue fines for employers currently considered non-compliant. I am not in favor of fining employers based on a law that may not exist in the future. Therefore, I am interested in understanding what changes are necessary to ensure that MCDOT does NOT issue fines to employers for delinquent TDM reports.

I am hopeful that the Office of the County Attorney can provide input on how to address this and any other transition issues that would arise from repealing the TDM program.

CC: Council President Kate Stewart
Councilmember Evan Glass
Ludeen McCartney-Green
Stephen Kenny



Fiscal Impact Statement

Office of Management and Budget

Bill 24-25

Transportation - Transportation Demand Management -- Repeal

Bill Summary

This bill would:

- Repeal Chapter 42A, Article II of the Montgomery County Code entitled "Transportation Demand Management."
- Terminate all prior Traffic Mitigation Agreements (TMAGs) and TDM Plans for developers/owners of projects.
- Terminate any TDM Plans submitted by employers.
- Require notice to be sent by the Department to each employer, building owner or responsible party with a TDM Plan that they are no longer subject to those plans and can request release of any liens.
- Eliminate TDM fees currently required to be paid by development projects with commercial space in Transportation Management Districts (TMDs).

Fiscal Impact Summary

The direct fiscal impact of this bill is \$1 million per year in lost revenue to the County, starting in FY26, due to elimination of TDM fees. The amount of foregone revenue will increase over time as a result of future projects with commercial space being constructed in TMDs that would otherwise have paid TDM fees.

Implementation of the bill can be absorbed by existing County government staff. However, if the timeline of notification on September 1st and then lien release on December 1st is maintained in the adopted law, the Montgomery County Department of Transportation will require additional contractor assistance for notifications and other actions that may be required to review existing TDM plans on file and contact property managers.

It is assumed that MCDOT will continue with TDM activities as funded in the Approved FY26 Operating Budget. However, MCDOT anticipates that additional resources may be required to increase outreach and to create incentives to attract and maintain employer and developer participation in TDM programs, given all requirements will be removed. Without such additional resources, the number of employees and residents reached by TDM programs will decline significantly.

Fiscal Year	2026	2027	2028	2029	2030	2031	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$50,000	\$0	\$0	\$0	\$0	\$0	\$50,000
Total Expenditures	\$50,000	\$0	\$0	\$0	\$0	\$0	\$50,000
Revenues	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$6,000,000)
Total Impact	(\$1,050,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$6,050,000)
FTE	0.00	0.00	0.00	0.00	0.00	0.00	



This bill will result in the immediate and ongoing loss of revenue from TDM fees. The FY26 Approved operating budget includes approximately \$1 million in TDM fee revenues in the Mass Transit Fund to support the TDM program. The bill does not change the amount appropriated for TDM in FY26; therefore the loss of revenues will result in a \$1 million deficit in the Mass Transit fund.

TDM fees are currently applied only to commercial space in development projects built in the six TMDs since adoption of the fees in 2006 (or since a later year, where formation of that TMD occurred later). TDM fees have not been applied to any type of residential construction, nor to any projects outside TMDs, nor to employers. The amount of foregone revenue is projected to increase over time as a result of future projects with commercial space being constructed in TMDs that would otherwise have paid TDM fees.

TDM fee revenues account for approximately 50 percent of the total budget for TMD outreach contractors and about 25-30 percent of the total TDM program budget. While the outreach contractors would have some reduced responsibilities due to removal of the need to provide technical assistance for required TDM plans, the scope reduction would not equal 50 percent of the total contract cost. To avoid a reduction in the level of outreach by nearly 50 percent, it will be necessary to increase tax or other revenues in the Mass Transit Fund.

Even if the current funding level is maintained, MCDOT estimates that, without a requirement for developers and employers to cooperate with the County in outreach efforts, it will be necessary to spend at least 30 to 40 percent more effort on outreach activities to reach the same number of people. In the absence of any requirements to do so, more resources will be needed to reach out to and incentivize developers and employers to cooperate with the County and implement TDM strategies. The only specific incentive currently in place is the FareShare program, under which the County pays a portion of an employer's cost to subsidize transit & vanpooling for their employees. FareShare is currently funded at \$75K and has been fully expended in FY25.

If the law is adopted as currently proposed and the first year of implementation is FY26, the Department would be required by September 1st to notify each employer, building owner or responsible party with an existing TDM plan regarding a number of elements detailed in the bill. MCDOT staff will be challenged in the brief time available after adoption with formulating communications and identifying and communicating with employers and developers/owners/managers of projects that have TMAgs and TDM Plans, and with developers paying TDM fees. These communications will initially be focused on reaching those affected by the law and taking any other actions required by the September 1st deadline, followed by the December 1 deadline in the proposed law (acceptance of lien release requests and recording those in the land records, or taking other legal or operational actions needed). Contractor assistance with an estimated cost of \$50,000 will be required to meet this deadline.

The current statute requires MCDOT to perform certain administrative functions, including gathering and reporting on commuter data. The commuter survey, which currently takes place every two years, costs approximately \$150,000. While it could be assumed that this cost is reduced without a requirement, the County and Planning Board may likely require some substitute data gathering to inform their planning and program management. Therefore, the County would assume either no cost savings or use of that cost savings to fund the increased outreach needs described above.

Fiscal Impact Analysis



This bill will require more intensive work by existing staff to develop new approaches and incentives, and conduct more outreach and promotion, given there are no requirements for developers/owners/employers to communicate or respond to any of those efforts.

During the initial transition period following adoption, County staff will need to do intensive work to notify developers and employers and explain changes to the law by September 1, 2025. MCDOT will require assistance to identify and contact all impacted properties and take the steps needed to discontinue those programs. In addition to assistance from the Office of the County Attorney, Department of Permitting Services and Department of Finance, outside contractor support will also be required.

Staff Impact

The Department of Finance reports that if the Bill is passed and implemented after September 30, 2025, then the majority TDM fee accounts would be paid and would require refunds. Issuance of refunds could be accomplished with limited additional staff time.

In MCDOT's experience prior to the 2002 law requiring employer cooperation, staff frequently were not able to establish communication channels with employers and were not permitted to conduct outreach to employees at worksites. MCDOT anticipates that the current program would reach significantly fewer employers and developers due to non-responsiveness, thus lessening effectiveness. Alternatively, staff would need to be augmented either with contractor support or additional employees to reach the current levels of engagement. MCDOT estimates that this increase in staff effort would amount to 30 to 40 percent.

Actuarial Analysis

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

Information Technology Impact

The Department of Finance will need to modify the tax billing system to eliminate TDM fees from property tax bills. This change can be accomplished with minimal effort.

Other Information

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

The bill does not authorize future spending.

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

This bill will eliminate requirements for current and past development projects, and for employers, to cooperate with the County to reduce impacts from traffic generated by that project or worksite. This may ultimately result in greater costs to the County, its residents, and businesses.

MCDOT anticipates that additional resources would be required to provide incentives to gain, and then maintain, employer and developer participation. Absent such resource commitments, the number of employees and residents reached by TDM programs will be significantly reduced.

It is anticipated that fewer commercial and multifamily residential buildings will participate in TDM without any requirements in place to do so. This will reduce the County's ability to address traffic generated by those projects. The resulting indirect costs are difficult to quantify but may include:

- Costs to County residents and businesses resulting from increased traffic congestion, crashes and delay;
- Additional road capacity needed; and



- Constrained (and more expensive) parking supplies, or construction costs for additional parking.

Such economic losses may ultimately reduce County tax revenues.

Past and current developer/owner TMAags and TDM Plans, once cancelled, are unlikely to be able to be reinstated if the removal of all TDM requirements is later reconsidered. As a result, the benefits of those agreements and TDM strategies will be permanently forgone.

Contributors

Gary Nalven, Office of Management and Budget
Christopher R. Conklin, MCDOT
Haley Peckett, MCDOT
Brady Goldsmith, MCDOT
Sandra L. Brecher, MCDOT
James Babb, Department of Finance
Lih Jiang, Department of Finance



Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 24-25: TRANSPORTATION DEMAND MANAGEMENT – REPEAL

SUMMARY

Based on available information and limited timeframe, the Office of Legislative Oversight (OLO) cannot estimate the anticipated impact of Bill 24-25 on racial equity and social justice (RESJ) in the County. An analysis of the Bill would require data on the Transportation Demand Management (TDM) program to determine its impact on transportation outcomes by race and ethnicity and on transportation inequities in the County. As the County's Office of the Inspector General found reporting on the effectiveness of the program incomplete, OLO is unable to ascertain the impact of the TDM program.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other People of Color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF BILL 24-25

In Montgomery County, Transportation Management Districts (TMDs) were created in the 1980s. There are six districts: Friendship Heights, Silver Spring, Downtown Bethesda, North Bethesda, Greater Shady Grove, and White Oak.³ The goals of TMDs are to:

- Cut traffic congestion
- Increase transportation capacity
- Reduce air and noise pollution; and
- Promote bicycle and pedestrian access.⁴

In 2006, the Montgomery County Council passed a bill that created a program for Transportation Demand Management (TDM) fees and requirements. For employers located in a TMD that retain 25 or more full- or part-time employees, they are required under County law to submit a TDM plan within 90 days after the Department of Transportation (DOT) notifies the business. Employers are also required to participate in a commuter survey and submit an annual report of employer actions to assist with reducing traffic congestion.⁵

Changes to the TDM program were enacted by the Council in 2019 and expanded the County's use of TDM. It expanded the requirements as it increased the number of employers required to submit TDM plans, increased the requirements on new and existing commercial buildings, and created new requirements for residential multi-family buildings.⁶

The purpose of Bill 24-25 is to repeal the entire TDM plan and fees and requirements that were established by the 2006 Bill and the 2019 updates to the law. The Bill would sunset the current TDM program and the program would officially end on December 31, 2025.⁷

RESJ Impact Statement

Bill 24-25

There are a few reasons why it is suggested the Council should repeal the TDM plan as explained in the staff introduction report including:

- A 2016 audit conducted by the County’s Inspector General (IG) found “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.”⁸ A second audit conducted in 2025 by the IG found no improvement in compliance with the program and that DOT did not ensure employers complied with TDM plans or submit commuter surveys.⁹
- The goals set in Non-Auto Driver Mode Share (NADMS) included in the County’s Growth and Infrastructure Plan (GIP) are similar to TDM plan goals. Despite a lack of oversight in compliance with TDM goals, it was reported in a 2024 staff report for a joint Transportation and Environment/Economic Development Committee session that all five TMD areas reached their NADMS goals due to high public transit ridership in these areas.¹⁰
- In a memorandum from Councilmember Marilyn Balcombe, the lead sponsor of this Bill, it was stated that “given the significant change in our telework environment, the increasing complexity of the TDM program, and the report inefficiency of the existing program, repealing the existing TDM law is the best path forward.”¹¹

Bill 24-25, Transportation Demand Management – Repeal was introduced by the County Council on June 17, 2025.¹²

ANTICIPATED RESJ IMPACTS

Due to the complexity of the proposed changes, determining the RESJ impact of Bill 24-25 would require a detailed investigation of how the TDM program has affected transportation outcomes by race and ethnicity and how the repeal of the TDM program would affect racial inequities and disparities in transportation in the future. As found in a 2025 report released by the County’s Office of the Inspector General, reporting on the effectiveness of the TDM program is incomplete, and OLO would not be able to ascertain the impacts of the TDM program.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹³ The analysis for Bill 24-25 is outside of the scope of this RESJIS. As such, OLO does not offer recommended amendments.

RESJ Impact Statement

Bill 24-25

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

¹ Definition of racial equity and social justice adopted from [Marlysa Gamblin et al., "Applying Racial Equity to U.S. Federal Nutrition Programs," Bread for the World](#) and [Racial Equity Tools](#).

² [Ibid.](#)

³ ["Welcome to Your Transportation Management District", Montgomery County Department of Transportation, Accessed 7/1/2025.](#)

⁴ [Ibid.](#)

⁵ [Montgomery County Code, Sec. 42A-24. Transportation Demand Management Plans for Employers, Accessed 7/1/2025.](#)

⁶ [Montgomery County Code, Sec. 42A-24.; "Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁷ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁸ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁹ ["Review of the Transportation Management Districts", Office of the Inspector General, March 17, 2025.](#)

¹⁰ ["Executive Regulation 8-21, Transportation Demand Management", Staff Report for Joint Transportation and Environment Committee and Economic Development Committee, July 18, 2024.](#)

¹¹ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

¹² [Ibid.](#)

¹³ [Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council.](#)

Economic Impact Statement

Montgomery County, Maryland

Bill 24-25: Transportation Demand Management – Repeal

Summary

Based on available information and limited timeframe, the Office of Legislative Oversight (OLO) cannot estimate the anticipated impact of Bill 24-25 on economic conditions in the County in terms of the Council's priority indicators. An analysis of the Bill would require data on the Transportation Demand Management (TDM) program to determine its impact on transportation and economic indicators. As found in the County's Office of the Inspector General, reporting on the effectiveness of the program is incomplete. Therefore, OLO is unable to assess the overall economic impact of the TDM program and its repeal. However, OLO notes that repealing the fees and requirements associated with the program would benefit certain employers by reducing operating expenses.

Background and Purpose of Bill 24-25

In Montgomery County, Transportation Management Districts (TMDs) were created in the 1980s. There are six districts: Friendship Heights, Silver Spring, Downtown Bethesda, North Bethesda, Greater Shady Grove, and White Oak.¹ The goals of TMDs are to:

- Cut traffic congestion
- Increase transportation capacity
- Reduce air and noise pollution; and
- Promote bicycle and pedestrian access.²

In 2006, the Montgomery County Council passed legislation creating a program for Transportation Demand Management (TDM) fees and requirements. For employers located in a TMD that retain 25 or more full- or part-time employees, they are required under County law to submit a TDM plan within 90 days after the Department of Transportation (DOT) notifies the business. Employers are also required to participate in a commuter survey and submit an annual report of employer actions to assist with reducing traffic congestion.³

Changes to the TDM program were enacted by the Council in 2019 and expanded the County's use of TDM. It expanded the requirements as it increased the number of employers required to submit TDM plans, increased requirements on new and existing commercial buildings, and created new requirements for residential multi-family buildings.⁴

¹ ["Welcome to Your Transportation Management District", Montgomery County Department of Transportation, Accessed 7/1/2025.](#)

² [Ibid.](#)

³ [Montgomery County Code, Sec. 42A-24. Transportation Demand Management Plans for Employers, Accessed 7/1/2025.](#)

⁴ [Montgomery County Code, Sec. 42A-24.; "Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

The purpose of Bill 24-25 is to repeal the entire TDM plan as well as fees and requirements that were established by the 2006 Bill and the 2019 updates to the law. The Bill would sunset the current TDM program, officially ending the program on December 31, 2025.⁵

There are a few reasons why it is suggested the Council should repeal the TDM plan as explained in the staff introduction report including:

- A 2016 audit conducted by the County's Inspector General (IG) found "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."⁶ A second audit conducted in 2025 by the IG found no improvement in compliance with the program and that DOT did not ensure employers complied with TDM plans or submit commuter surveys.⁷
- The goals set in Non-Auto Driver Mode Share (NADMS) included in the County's Growth and Infrastructure Plan (GIP) are similar to TDM plan goals. Despite a lack of oversight in compliance with TDM goals, it was reported in a 2024 staff report for a joint Transportation and Environment/Economic Development Committee session that all five TMD areas reached their NADMS goals due to high public transit ridership in these areas.⁸
- In a memorandum from Councilmember Marilyn Balcombe, the lead sponsor of this Bill, it was stated that "given the significant change in our telework environment, the increasing complexity of the TDM program, and the report inefficiency of the existing program, repealing the existing TDM law is the best path forward."⁹

Bill 24-25, Transportation Demand Management – Repeal was introduced by the County Council on June 17, 2025.¹⁰

Information Sources, Methodologies, and Assumptions

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Bill 24-25 on residents and private organizations in relation to Council's priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.¹¹

An analysis of the Bill would require data on the Transportation Demand Management (TDM) program to determine its impact on transportation and economic indicators. As found in the County's Office of the Inspector General, reporting on the effectiveness of the program is incomplete. Therefore, OLO is unable to

⁵ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁶ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁷ ["Review of the Transportation Management Districts", Office of the Inspector General, March 17, 2025.](#)

⁸ ["Executive Regulation 8-21, Transportation Demand Management", Staff Report for Joint Transportation and Environment Committee and Economic Development Committee, July 18, 2024.](#)

⁹ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

¹⁰ [Ibid.](#)

¹¹ Montgomery County Code, ["Sec. 2-81B, Economic Impact Statements."](#)

assess the overall economic impact of the TDM program and its repeal. However, OLO notes that repealing the fees and requirements associated with the program would benefit certain employers by reducing operating expenses.

Variables

Not applicable

Impacts

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

Discussion Items

Not applicable

Caveat

Two caveats to the economic impact analysis conducted here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

Contributions

Stephen Roblin (OLO) prepared this report.

Climate Assessment

Office of Legislative Oversight

BILL 24-25: TRANSPORTATION DEMAND MANAGEMENT - REPEAL

SUMMARY

Based on available information and limited timeframe, the Office of Legislative Oversight (OLO) cannot estimate the impact of Bill 24-25 on the County's contribution to climate change, nor climate resilience. An analysis of the Bill would require data on the Transportation Demand Management (TDM) program to determine its impact on the County's transportation goals, including reducing travel related emissions and increasing multi-modal transportation. As the County's Office of the Inspector General found reporting on the effectiveness of the program incomplete, OLO is unable to ascertain the impact of the TDM program.

BACKGROUND AND PURPOSE OF BILL 24-25

In Montgomery County, Transportation Management Districts (TMDs) were created in the 1980s. There are six districts: Friendship Heights, Silver Spring, Downtown Bethesda, North Bethesda, Greater Shady Grove, and White Oak.¹ The goals of TMDs are to:

- Cut traffic congestion
- Increase transportation capacity
- Reduce air and noise pollution; and
- Promote bicycle and pedestrian access.²

In 2006, the Montgomery County Council passed a bill which created a program for Transportation Demand Management (TDM) fees and requirements. For employers located in a transportation management district that retain 25 or more full- or part-time employees, they are required under County law to submit a TDM plan within 90 days after the Department of Transportation (DOT) notifies the business. Employers are also required to participate in a commuter survey and submit an annual report of employer actions to assist with reducing traffic congestion.³

Changes to the TDM program were enacted by the Council in 2019 and expanded the County's use of TDM. It expanded the requirements as it increased the number of employers required to submit TDM plans, increased the requirements on new and existing commercial buildings, and created new requirements for residential multi-family buildings.⁴

The purpose of Bill 24-25 is to repeal the entire TDM plan and fees and requirements that were established by the 2006 Bill and the 2019 updates to the law. The Bill would sunset the current TDM program and the program would officially end on December 31, 2025.⁵

There are a few reasons why it is suggested the Council should repeal the TDM plan as explained in the staff introduction report including:

- A 2016 audit conducted by the County’s Inspector General (IG) found “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.”⁶ A second audit conducted in 2025 by the IG found no improvement in compliance with the program and DOT did not ensure employers complied with TDM plans or submit commuter surveys.⁷
- The goals set in Non-Auto Driver Mode Share (NADMS) included in the County’s Growth and Infrastructure Plan (GIP) are similar to TDM plan goals. Despite a lack of oversight in compliance with TDM goals, it was reported in a 2024 staff report for a joint Transportation and Environment Committee and Economic Development Committee session that all five TMD areas reached their NADMS goals due to high public transit ridership in these areas.⁸
- In a memorandum from Councilmember Marilyn Balcombe, the lead sponsor of this Bill, it was stated that “given the significant change in our telework environment, the increasing complexity of the TDM program, and the report inefficiency of the existing program, repealing the existing TDM law is the best path forward.”⁹

Bill 24-25, Transportation Demand Management – Repeal was introduced by the County Council on June 17, 2025.¹⁰

ANTICIPATED IMPACTS

Due to the complexity of the proposed changes, determining the impact of Bill 24-25 would require a detailed investigation of how the TDM program has affected the County’s transportation goals and how the repeal of the TDM program would affect future transportation goals and DOT’s ability to meet these goals. As found in a 2025 report released by the County’s Office of the Inspector General, reporting on the effectiveness of the TDM program is incomplete, and OLO would not be able to ascertain the impacts of the TDM program.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.¹¹ OLO does not offer recommendations or amendments as Bill 24-25 is likely to have little to no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ ["Welcome to Your Transportation Management District", Montgomery County Department of Transportation, Accessed 7/1/2025.](#)

² [Ibid.](#)

³ [Montgomery County Code, Sec. 42A-24. Transportation Demand Management Plans for Employers, Accessed 7/1/2025.](#)

⁴ [Montgomery County Code, Sec. 42A-24.; "Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁵ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁶ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

⁷ ["Review of the Transportation Management Districts", Office of the Inspector General, March 17, 2025.](#)

⁸ ["Executive Regulation 8-21, Transportation Demand Management", Staff Report for Joint Transportation and Environment Committee and Economic Development Committee, July 18, 2024.](#)

⁹ ["Introduction Staff Report for Bill 24-25, Transportation - Transportation Demand Management - Repeal", Montgomery County Council, Introduced June 17, 2025.](#)

¹⁰ [Ibid.](#)

¹¹ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022



DEPARTMENT OF TRANSPORTATION


Marc Elrich
County Executive

Christopher R. Conklin
Director

MEMORANDUM

November 7, 2025

TO: Evan Glass, Chair, Transportation & Environment Committee
Montgomery County Council

FROM: Christopher R. Conklin, Director 
Department of Transportation Christopher Conklin (Nov 7, 2025 15:32:13 EST)

SUBJECT: Bill 24-25 Amendments and Considerations

On June 17, 2025, the Montgomery County Council Transportation & Environment Committee introduced Bill 24-25 to repeal Chapter 42A, Article II, Transportation Demand Management (TDM) of the County Code. At a Committee work session on October 20, 2025, the Committee requested Montgomery County Department of Transportation (MCDOT) and Montgomery Planning (Planning) provide additional information on four areas of discussion:

1. Research on the establishment of Traffic Mitigation Agreements (TMAs) and TDM Plans as conditions of development approval
2. Legal authority of MCDOT and Planning to implement elements of the current TDM program outside of Chapter 42A, Article II
3. Legal authority and process guidance on the termination of existing TMAs and TDM Plans (as proposed in Section 2 of Bill 24-25)
4. Impacts of cuts to TDM fees

This memo provides additional information on these areas and proposes options for the Committee's consideration.

1. TMAs and TDM Plans as a Condition of Approval

MCDOT reviewed its records of TMAs and TDM Plans completed since August 2000. Of 138 plans filed with MCDOT, 95 include language that confirms they were filed as a condition of development approval. Thirteen plans have been terminated since 2000, and thirty plans require additional research to confirm termination dates and/or conditions of approval. MCDOT estimates that an additional 70-100 plans from prior to 2000 exist in paper copy only, and an undetermined number of

Office of the Director

101 Monroe Street, 10th Floor, Rockville, MD 20850 · 240-777-7170 · 240-777-7178 Fax
www.montgomerycountymd.gov/mcdot



montgomerycountymd.gov/311

301-251-4850 TTY

TMAgs are filed with the Hearing Examiner. Researching the status of these plans would be time-consuming, but these plans are likely similar to the 95 plans reviewed to date.

All plans reviewed thus far have been confirmed to be conditions of development approval and related to the provision of adequate public facilities (APF). MCDOT expects that further research will confirm that virtually all plans have similar conditions and legal ties to APF.

2. Legal Authority for TDM Program Administration and TMAgs

MCDOT identified at least three sections of the County Code that provide authority to administer elements of the TDM program currently covered under Chapter 42A, Article II.

- Chapter 42A, Article I, Section 9A provides requirements for TMAgs executed as a prerequisite of the Department of Permitting Services to issue a building permit;
- Chapter 50 provides authority for the Montgomery County Planning Board to require traffic mitigation, which can be in the form of a TMAg, as a condition of development approval;
- County Code, Part II, Division 10 (covering MCDOT) requires MCDOT to “perform all public transit engineering and operational functions, including... transportation demand management programs....” (Section 2-55).

None of the code references listed above provides an explicit role or authority for MCDOT in the approval and oversight of TDM Plans or TMAgs related to development projects. MCDOT recommends retaining in Code a description of MCDOT’s role in managing TDM Plans to avoid confusion about agency roles and responsibilities and to make the most effective use of the resources in place for this function. Potential amendment language that would maintain current roles as part of the Code is provided below. This would lead to a more resilient and consistent legal and resource allocation framework and avoids the need for negotiating external agreements between MCDOT and Planning. The amendments below also avoid the need to amend Chapter 50 to define TDM.

Language for consideration based on Sec. 42A-26:

Sec. 42A-26: Transportation Demand Management Plans

(a) Definitions:

- 1) Department means the Department of Transportation.
- 2) Transportation demand management, or TDM, means any method of reducing demand for road capacity, especially during a peak period.
- 3) Transportation Demand Management Plan or TDM Plan means a set of strategies designed to implement TDM for a development project, that may be a condition of approval established by the Planning Board.

(b) TDM Plan Contents: If required as a condition of development approval, a TDM Plan must be submitted by the owner or applicant and approved by the Department. The TDM Plan must document facilities constructed or installed by the project and operational commitments by the applicant that promote Non-Auto Driver Mode Share (NADMS) for building occupants. Requirements for TDM Plans must be proportionate to the size and scale of the development and its potential to generate demand for transportation.

(c) TDM Plan Approval: The TDM Plan must be approved by the Department prior to the issuance of any building permit. A TDM Plan may not be required if a fully executed traffic

mitigation agreement for the project is in effect. The Department of Permitting Services must confirm that the TDM Plan has been approved by the Director prior to issuing a building permit.

- (d) TDM Plan Recordation: The approved TDM Plan must be recorded in the County's land records.
- (e) TDM Plan Enforcement: If the applicant fails to implement the approved TDM plan, the Director may seek enforcement through the Planning Board's authority to revoke or otherwise enforce any approvals under [Chapter 50](#) or [Chapter 59](#).

3. Process for Termination of Existing Agreements.

If any existing TMAg or TDM Plan was not required as a condition of development approval or is not a multiparty agreement, it may be terminated at the County's discretion. Otherwise, elimination of TMAgs and TDM Plans needs to first be eliminated as a condition of approval, following Planning's procedures for amendment of an approved development plan. If the requirement for a TMAg or TDM Plan is eliminated as a Condition of Plan Approval, the agreement can be cancelled. MCDOT recommends that any communication directed by this law first state that the property owners be directed to review their conditions of approval and seek an amendment to eliminate the requirement for a TDM Plan or TMAg before seeking termination of the agreement or plan by the County.

The following language is suggested to replace Lines 739 through 765. It borrows language from Council staff and accounts for existing authorities for amending or terminating TMAgs and TDM Plans.

- (a) *Amendment request*. An employer, building owner, or responsible party subject to an agreement or plan under Article II of Chapter 42A may request amendment or termination of its agreement or plan if the plan is not otherwise required as a condition of development approval or through a multiparty agreement. All third-party requirements for a TMAg or TDM Plan must be released before the County can terminate the plan or agreement.
- (b) *Communication*. Within 90 days of the effective date of this legislation, the Department shall, to the extent feasible, proactively communicate with employers, building owners, and other stakeholders that have or may have active TDM Plans or TMAgs using available contact information in its outreach database. The communication shall notify the parties of changes to the County Code that may impact them.

4. Impact of Elimination of the TDM Fee.

TDM fees make up 25 percent of the operating budget for MCDOT's TDM activities, which is approximately \$4.1 million for FY26. Of this budget, \$1.6 million is related to fixed costs. The variable costs contained within the budget are principally associated with contractual services provided by county businesses and organizations, for which \$2.5 million is budgeted for FY26. If the fees are eliminated in FY27, the budget available for these services will be reduced by approximately \$1M, representing a 40 percent reduction in operating budget for variable costs. These contractual services are focused on direct outreach to employers and support for commute-related events throughout the County, but also concentrated in the principal business districts of Bethesda, Friendship Heights, North Bethesda, Shady Grove, Silver Spring, and White Oak.

MCDOT recognizes that the existing TDM fee, while meaningful to our operations, is viewed as inequitable and burdensome among some stakeholders. While we first recommend retaining the fee,

in lieu of removing the basis for the fee from the law, we suggest that the Council consider maintaining the authority for a TDM fee while setting the fee to zero until such time that the Council can determine a more equitable – and potentially much-reduced structure. We would suggest for your consideration the following language, accompanied by an annual rate resolution adopted at the time of budget approval that zeroes out the existing fee if that is the Council's desire.

Sec. 42A-31: Transportation Demand Management Fee

(a) Authority.

- 1) The Council may, by resolution adopted under Section 2-57A, set the transportation demand management fee that the Department must annually charge an applicant, and each successor in interest.
- 2) The Department is authorized to charge a transportation demand management fee adopted by the Council to:
 - A. an applicant for subdivision or optional method approval, site plan approval or a building permit and
 - B. an applicant for development approval or building permit, or an owner of existing commercial, industrial or multi-unit residential developed property, including a property where the principal use is a commercial parking facility.

(b) Use of revenue. The revenue generated by a transportation demand management fee must be used to cover the cost of administering TDM strategies.

(c) Method. A transportation demand management fee may be assessed on 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; the number of dwelling units, the gross square feet or the gross floor area, in a residential building; the number of parking spaces associated with a building; or any other measurement reasonably related to the transportation impacts of the project.

cc: Kate Stewart, President, Montgomery County Council
Marilyn Balcombe, Councilmember, Montgomery County Council
Ken Hartman-Espada, Assistant Chief Administrative Officer, Office of the County Executive
Tricia Swanson, Director of Strategic Partnerships, Office of the County Executive
Jason Sartori, Director, Montgomery Planning
Robert Kronenberg, Deputy Director, Montgomery Planning
Dave Anspacher, Chief, Transportation Planning, Montgomery Planning



November 12, 2025

The Honorable Evan Glass

Chair, Transportation & Environment Committee
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Subject: Bill 24 – 25 – Transportation Demand Management – Repeal

Dear Chair Glass,

I am writing to express Montgomery Planning's support for MCDOT's proposed amendments to Section 42A-26 of Bill 24-25 and the replacement language for Lines 739 through 765, as outlined in Director Conklin's memorandum dated November 9, 2025. Montgomery Planning concurs with the assessment that these amendments will clarify agency roles and responsibilities and optimize the utilization of available resources for this function.

This memo provides additional information for the Committee's consideration.

Planning Board's Authority to Require TDM as Condition of Development Approval

The Planning Board is vested with the authority to require TDM mitigation as part of the development approval process under Section 50.4.3.J.4.c.

- c. If the Board finds, under criteria and standards adopted by the Council, that additional transportation facilities or traffic mitigation measures are necessary to ensure that transportation facilities will be adequate to serve the subdivision and to meet the transportation goals established by a master plan or the Growth and Infrastructure Policy for that portion of the County, the subdivision plan may also be subject to the execution of a Traffic Mitigation Agreement (TMAg) at the discretion of the Board.*

Process for Termination of Existing Agreements Required as a Condition of Development Approval

Property owners seeking to terminate their TMAg or TDM Plan must submit a preliminary plan amendment to the Planning Board. The Board will review the proposal in accordance with the current requirements of the Growth and Infrastructure Policy to determine the necessary transportation system improvements. Property owners will receive credit for previously constructed improvements or payments made in lieu of such improvements. As TDM encompasses measures designed to reduce motor vehicle trips, eliminating these requirements will likely increase traffic. Consequently, it is likely

that many applicants can anticipate additional obligations, either through further constructed improvements or additional payments.

Process for Amending an Existing Agreement Required as a Condition of Development Approval

Property owners seeking to terminate their TMAg must request that the M-NCPPC Executive Director and Transportation Director approve a change to a TMAg to replace mitigation measures with other mitigation measures that are likely to have a similar or greater effect at reducing single occupancy vehicle trips.

Planning Board Actions if Chapter 42A Is Repealed

If Bill 24-25 does not retain MCDOT's authority to develop, conduct and enforce TDM activities as conditions of development approval, the following considerations are recommended:

- **Affirmation of TDM Authority:** The repeal of Chapter 42A may suggest that the Council does not intend the Planning Board to continue requiring TDM agreements as approval conditions. To ensure clarity, it is suggested that the Council include explicit language saying that the repeal of Chapter 42A does not otherwise repeal or impact the Planning Board's authority under Chapters 50 or 59 to impose TDM measures, TMAgs and/or other agreements or plans as part of the Planning Board's regulatory authority.
- **Staffing:** While the Planning Board maintains authority to mandate TDM measures, Montgomery Planning currently lacks sufficient staffing to monitor, conduct and enforce these measures and agreements. To address this, either an agreement must be established between Montgomery Planning and MCDOT to enable MCDOT to continue to conduct and enforce TDM activities, or the Council should allocate additional positions to Montgomery Planning.
- **Chapter 50 Clarifications:** It may be advisable to amend Section 50.4.3 to define TDM similar to the language that MCDOT is proposing for Chapter 42A and to clarify the responsibilities of the Planning Board and MCDOT in this context.

Sincerely,



Jason K. Sartori
Planning Director

cc: Kate Stewart, President, Montgomery County Council
Marilyn Balcombe, Councilmember, Montgomery County Council
Ludeen McCartney-Green, Council Staff
Robert Kronenberg, Deputy Director, Montgomery Planning
David Anspacher, Chief, Transportation Planning and Policy
Chris Conklin, Director, Montgomery County Department of Transportation
Haley Peckett, Deputy Director, Montgomery County Department of Transportation