

Bill No. 36-18
Concerning: Transportation
Management - Transportation
Demand Management Plan -
Amendments
Revised: December 3, 2019 Draft #11
Introduced: November 13, 2018
Enacted: December 3, 2019
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN ACT to:

- (1) expand transportation demand management to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote the sustainability of existing and future development;
- (2) establish the requirements for a transportation demand management plan for development in certain areas of the County; and
- (3) update the law governing transportation management in the County.

By amending

Montgomery County Code
Chapter 42A, Ridesharing and Transportation Management
Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29,
and 42A-30

By adding

Montgomery County Code
Chapter 42A, Ridesharing and Transportation Management
Sections 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:

1 **Sec. 1. Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-**
 2 **27, 42A-28, 42A-29, and 42A-30 are amended and Sections 42A-31 and 42A-32**
 3 **are added as follows:**

4 **42A-21. Definitions.**

5 In this Article, unless the context indicates otherwise:

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

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

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

- 19 (1) the provision of parking spaces as a component of a sale or lease
 20 when voluntarily requested by a prospective purchaser or lessee;
 21 or
- 22 (2) a parking space physically integrated with an individual leasable
 23 or sales unit if the parking space is dedicated to that unit and can
 24 be directly accessed through that unit such that only occupants
 25 of that unit are able to use the space or spaces.

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

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

31 *Date of final occupancy* means the earlier of:

32 (1) the date on which 80 percent of a building or project has been
 33 leased or sold; or

34 (2) two years after the first final use and occupancy certificate has
 35 been issued.

36 *Department* means the Department of Transportation.

37 *Director* means the Director of the Department of Transportation or the
 38 Director's designee.

39 *District* means a transportation management district created under this Article.

40 *Employee* means a person hired by an employer, including a part-time or
 41 seasonal worker or a contractor, reporting to or assigned to work on a regular
 42 basis at a specific workplace controlled by that business or organization,
 43 including a teleworker.

44 *Employer* means any [public or private] business or government entity,
 45 including the County, employing 25 or more [employees and having a
 46 permanent place of business] employees including contractors ~~[[at]]~~ assigned
 47 to a worksite ~~[[within]]~~ [in] ~~[[a district]]~~. [The maximum number of
 48 employees on the largest shift working in a district determines the size of the
 49 employer.] Employer does not include:

50 (1) a [contractor, business, or government entity with no permanent
 51 place of business in a district] home-based business;

52 (2) [a home-based business;

53 (3)] a business with no employees housed at that work site;

54 [(4) any business with no permanent workplace or location;] or

55 [(5)] (3) any government agency not required by law to follow
56 County regulations.

57 [Growth Policy means the most recently adopted Growth Policy under Section
58 33A-15.]

59 NADMS goal means the specific NADMS percentage goal for peak period
60 commuters in a District or a Policy Area that has been established through a
61 Master Plan, through the Subdivision Staging Policy, or through regulation.

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

67 *Peak period* means the hours of highest transportation use [[in a district]] each
68 workday, as defined in the resolution creating a [[district]] District, as
69 established in the Subdivision Staging Policy, or established through a
70 technical study.

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

73 Policy Area means a Transportation Policy Area adopted by the County
74 Council through the Subdivision Staging Policy.

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

76 Resident means an adult domiciled in the relevant area.

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

79 Subdivision Staging Policy means the most recent policy adopted under
80 Section 33A-15.

81 *Telework* means a work arrangement where a manager directs or permits an
82 employee to perform usual job duties away from the central workplace in

83 accordance with established performance expectations and agency-approved
 84 or agreed-upon terms.

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

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

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

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

100 Vanpool means a [van occupied by at least 8 employees traveling together]
 101 vehicle that has the capacity for 6 or more passengers in addition to the driver
 102 if:

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

108 Workplace means the place of employment, base of operations, or
 109 predominant location of an employee.

110 **42A-22. Findings and purposes.**

- 111 (a) New economic development is important to stimulate the local
 112 economy. Focusing new development in high transit-service areas is
 113 an important County land use and economic development objective.
- 114 (b) Limited transportation infrastructure, traffic congestion, inadequate
 115 access to transit, bicycle and pedestrian [access] facilities, and safety
 116 issues impede the County’s land use and economic development
 117 objectives.
- 118 (c) Transportation demand management, in conjunction with adequate
 119 transportation facility review, planned capital improvement projects,
 120 and parking and traffic control measures, will:
- 121 (1) help provide sufficient transportation capacity to achieve County
 122 land use objectives and permit further economic development;
- 123 (2) reduce the demand for road capacity, [and] promote [traffic]
 124 safety for all users of transportation infrastructure, and improve
 125 access to transit, bicycle and pedestrian [access] facilities; and
- 126 (3) help reduce vehicular emissions, energy consumption, and noise
 127 levels, and help address climate change.
- 128 (d) Improved traffic levels and air quality, and a reduction in ambient noise
 129 levels will help create attractive and convenient places to live, work,
 130 visit, and conduct business.
- 131 (e) Transportation demand management will equitably allocate
 132 responsibility for reducing single-occupancy vehicle trips among
 133 government, developers, employers, property owners, [[renters]]
 134 tenants, and the public.
- 135 (f) Transportation demand management should be consistent with any
 136 commuting goals set in the [Growth] Subdivision Staging Policy,
 137 Master Plans, and Sector Plans. TDM should [and] foster coordinated
 138 and comprehensive government, private industry, and public action to:

- 139 (1) make efficient use of existing transportation infrastructure;
- 140 (2) increase transportation capacity as measured by numbers of
- 141 people transported;
- 142 [(2)] (3) reduce existing and future levels of traffic congestion by
- 143 moving more people in fewer vehicles;
- 144 [(3)] (4) reduce air and noise pollution, and address climate change;
- 145 and
- 146 [(4)] (5) promote traffic safety together with transit, [and]
- 147 pedestrian and bicycle safety and access for all users.
- 148 (g) Transportation demand management will substantially advance public
- 149 policy objectives. Adoption of this Article is in the best interest of the
- 150 public health, safety, and general welfare of the County.

151 **42A-23. Districts; authority of the Department and Planning Board.**

- 152 (a) The County Council by resolution may create a transportation
- 153 management district [in] (TMD) [[in a policy area where]] in Red,
- 154 Orange, or Yellow Policy Areas as defined in the Subdivision Staging
- 155 Policy [[requires transportation review]]. A district may be formed
- 156 from all, or portions of, one or more [[Subdivision Staging]] Policy
- 157 areas, even if they are not contiguous. [:
- 158 (1) a Metro station policy area, which may include adjacent areas
- 159 served by the same transportation network; or
- 160 (2) an area where transportation review applies under the Growth
- 161 Policy.]
- 162 (b) The Department may take actions necessary to achieve effective
- 163 transportation demand management in each [[district]] District, on its
- 164 own or by contract with any employer, transportation management
- 165 organization, or other party, including:

- 166 (1) ~~[[regulating]]~~ controlling the use of or limiting public parking,
 167 by regulation adopted under method (2);
- 168 (2) prohibiting bundling of parking in new developments;
- 169 (3) monitoring and assessing traffic patterns and pedestrian access
 170 and safety;
- 171 ~~[(3)]~~ (4) adopting traffic and parking control measures;
- 172 ~~[(4)]~~ (5) providing transit, shuttles, circulator services, or other
 173 transportation services;
- 174 (6) implementing approved transportation-related capital projects;
- 175 ~~[(5)]~~ (7) promoting, ~~[[or]]~~ implementing, and improving existing
 176 transit and ridesharing incentives;
- 177 ~~[(6)]~~ (8) promoting regional cooperation between the County and
 178 other government agencies;
- 179 ~~[(7)]~~ (9) creating cooperative County-private sector programs to
 180 increase ridesharing and transit use; and
- 181 ~~[(8)]~~ (10) conducting surveys, studies, and statistical [analysis]
 182 analyses to determine the effectiveness of [traffic mitigation] and
 183 improvements needed to advance transportation demand
 184 management plans and employer and building owner efforts.
- 185 (c) In each ~~[[transportation management district]]~~ District, sole source
 186 contracts may be signed with, or funds granted to, one or more
 187 transportation management organizations to carry out transportation
 188 demand management programs that the Department could otherwise
 189 carry out, under Chapter 11B.
- 190 (d) The Department and the Planning Board may, in accordance with this
 191 Article and other applicable law, jointly or separately impose
 192 transportation demand management measures as conditions on the
 193 Board's approval of development in any ~~[[district]]~~ District.

194 (e) Each ~~[[district]]~~ District may have a Transportation Management
 195 District Advisory Committee if the Executive by regulation decides a
 196 Committee is necessary to carry out this Article or if the Council creates
 197 a Committee by resolution. The Executive or Council may designate
 198 any existing advisory body appointed by the Executive and confirmed
 199 by the Council to serve as a Transportation Management District
 200 Advisory Committee. The Executive must appoint, and the Council
 201 must confirm, members of any Advisory Committee. The County must
 202 not compensate members of an Advisory Committee for their services.
 203 Advisory Committee members, not otherwise public employees as
 204 defined in Chapter 19A, are not subject to the financial disclosure
 205 provisions of that Chapter.

206 **42A-24. [Traffic mitigation plans] Transportation Demand Management**
 207 **Plans for Employers.**

208 (a) Transportation Demand Management (TDM) [[Plans]] Plan for an
 209 Individual Employer.

210 (1) The Director must require an employer subject to this Section to
 211 submit a TDM Plan meeting the requirements of this Section [If
 212 an employer is subject to this Section, and] [[if the Council by
 213 resolution or in the [Growth] Subdivision Staging Policy has
 214 approved the use of traffic mitigation plans or TDM Plans in a
 215 given]] ~~[[district]]~~ District[, the Director must notify the
 216 employer by letter that the employer must submit a traffic
 217 mitigation plan meeting the requirements of this Section].

218 [(b)] (2) Upon written request from the Director, an employer
 219 [[within a ~~[[district]]~~ District]] must provide the Director with the
 220 number of full-time and part-time employees working for that

221 organization [[at any]] by workplace [[within the district]] in
 222 each Policy Area or District.

223 (3) An employer [who employs 25 or more employees in a district
 224 at any time within one year before receiving notice under
 225 subsection (a)] must submit a [traffic mitigation plan] TDM Plan
 226 to the Director if:

227 (A) the employer is in a Red Policy Area under the
 228 Subdivision Staging Policy and has 25 or more employees
 229 reporting to or assigned to that workplace;

230 (B) the employer is in an Orange Policy Area under the
 231 Subdivision Staging Policy and has 100 or more
 232 employees reporting to or assigned to that workplace;

233 (C) the employer is in a Yellow Policy Area under the
 234 Subdivision Staging Policy and has 200 or more
 235 employees reporting to or assigned to that workplace; or

236 (D) the employer is in one of the following [[districts]]
 237 Districts and has 25 or more employees reporting to or
 238 assigned to a workplace:

239 Silver Spring TMD

240 Friendship Heights TMD

241 Bethesda TMD

242 North Bethesda TMD

243 Greater Shady Grove TMD

244 [[White Oak TMD]].

245 [(c)] (4) The [traffic mitigation plan should] TDM Plan must be
 246 consistent with and contribute to the achievement of any
 247 NADMS Goal or other commuting goals set in the [Growth]
 248 Subdivision Staging Policy, Master Plans, Sector Plans, and any

249 individual project-based goals or [[interim]] goals established in
 250 the regulations implementing this Article. The TDM Plan must
 251 include strategies required by regulation and other strategies
 252 selected by the employer from those permitted by regulation or
 253 proposed by the employer and approved by the Director. A
 254 [traffic mitigation plan] TDM Plan may include an alternative
 255 work hours program, carpool or vanpool incentives, subsidized
 256 transit passes, preferential parking for carpools and vanpools,
 257 parking management strategies, peak period or single-occupancy
 258 vehicle parking charges, improved transit, bicycle and pedestrian
 259 access and safety, telework, and other transportation demand
 260 management measures approved by the Director.

261 [(d)] (5) Each employer must submit its [traffic mitigation plan]
 262 TDM Plan within 90 days after receiving written notice from the
 263 Director that it is required [under subsection (a)]. The Director
 264 may extend an employer's time to file a [traffic mitigation plan]
 265 TDM Plan for good cause.

266 [(e)] (b) Consolidated Employer Transportation Demand Management
 267 Plans.

268 (1) An employer may submit a consolidated [traffic mitigation plan]
 269 TDM Plan with other employers in the same building or building
 270 complex. An owner of a nonresidential building in a [[district]]
 271 District may submit a consolidated [traffic mitigation plan] TDM
 272 Plan on behalf of one or more employers in the building.

273 (2) A consolidated plan must be designed so that the action it
 274 requires satisfies this Section for employers covered by the plan
 275 and complies with the regulations implementing this Section.

276 [(f)] (c) Actions and assistance to be provided. The Director must:

- 277 (1) offer to help employers prepare TDM Plans;
 278 (2) decide if each proposed plan meets the requirements of this
 279 Section; and
 280 (3) help an employer revise a plan that the Director determines does
 281 not meet the requirements of this Section.
- 282 (d) Resubmission of TDM Plan. The Director may require an employer to
 283 resubmit a plan that the Director finds inadequate to achieve any Non-
 284 Auto Driver Mode Share goals or other commuting goals [[for that
 285 district]]. Once a plan has been approved, the Director must not require
 286 an employer to submit a revised plan that meets the requirements of this
 287 Section more than once every two years.
- 288 (e) Annual TDM Plan report. An employer must submit a report on
 289 strategies used to implement a TDM Plan, including progress achieved
 290 under that plan, to the transportation management organization and the
 291 Director on a schedule established by the Director.
- 292 (f) Transportation Demand Management Plan for the Montgomery County
 293 Government.
- 294 (1) The Director of the Office of Human Resources, after consulting
 295 with the Director of Transportation, must submit a TDM Plan for
 296 County employees to the Chief Administrative Officer with a
 297 copy to the Council.
- 298 (2) The TDM Plan must include incentives, policies, or outreach
 299 needed to increase the number of County employees commuting
 300 to work through modes other than driving an automobile.
- 301 [(1) The Director may require an owner of a nonresidential building
 302 in a district to submit a traffic mitigation plan if:

- 303 (A) the Director finds that a plan is necessary to achieve the
 304 purpose of this Article because of the owner's control of
 305 parking or common space or for similar reasons; and
- 306 (B) the Director notifies the owner of the building under
 307 subsection (a).]
- 308 [(2) As specified in the notice, the owner's plan may cover all or some
 309 employers in the building. A plan submitted under this
 310 subsection may be in addition to one an individual employer
 311 must submit.]
- 312 [(3) After receiving notice under this Section, an owner must submit
 313 a traffic mitigation plan that meets the requirements applicable
 314 to an employer.]
- 315 [(g) (1) The Director may require an owner of a residential building or
 316 complex with at least 100 dwelling units, including a common
 317 ownership community as defined in Chapter 10B, in a district to
 318 submit a traffic mitigation plan if:
- 319 (A) the Director finds that a plan is necessary to achieve the
 320 purpose of this Article because of the owner's control of
 321 parking or common space or for similar reasons; and
- 322 (B) the Director notifies the owner of the building under
 323 subsection (a).
- 324 (2) After receiving notice under this Section, an owner of a
 325 residential building must submit a traffic mitigation plan that
 326 meets the requirements applicable to an employer.]
- 327 [(h) The Director must offer to help employers and owners prepare traffic
 328 mitigation plans.]
- 329 [(i) The Director must:

- 330 (1) decide if each proposed plan meets the requirements of this
 331 Section; and
 332 (2) help the employer or owner revise a plan which does not meet
 333 the requirements.]

334 [(j) The Director may require an employer or owner to resubmit a plan that
 335 is not consistent with any commuting goals set in the Growth Policy.
 336 The Director must not require an employer to submit a plan that meets
 337 the requirements of this Section more than once every 2 years. An
 338 employer must submit a report on transportation management measures
 339 used to implement a traffic mitigation plan to the transportation
 340 management organization based on a schedule the Director sets.]

341 **42A-25. [Traffic mitigation agreements] Transportation Demand**
 342 **Management Plans for Existing Buildings.**

343 [(a) Any proposed subdivision or optional method development in a district
 344 must be subject to a traffic mitigation agreement if the Planning Board
 345 and the Director jointly decide, under standards adopted by the Council
 346 for the adequacy of public transportation, that more transportation
 347 facilities or transportation demand management measures are necessary
 348 to meet any commuting goals set in the Growth Policy.]

349 [(b) A traffic mitigation agreement must specify transportation demand
 350 management measures that the applicant or a responsible party must
 351 carry out. The measures must be calculated to ensure that public
 352 transportation will be adequate to meet commuting goals set in the
 353 Annual Growth Policy.]

354 [(c) A traffic mitigation agreement may require:
 355 (1) naming a transportation coordinator;
 356 (2) limits on parking spaces;
 357 (3) peak period or single-occupancy vehicle parking charges;

- 358 (4) preferential parking for carpools and vanpools;
- 359 (5) subsidies for employees not using single-occupancy vehicles;
- 360 (6) financial or other participation in building or operating on- or off-
- 361 site transportation facilities or systems;
- 362 (7) providing space on a periodic basis for marketing and
- 363 promotional activities of the district;
- 364 (8) designating permanent areas in prominent locations to display
- 365 information on commuting options; or
- 366 (9) other transportation demand management measures.]

367 [(d) A traffic mitigation agreement must be:

- 368 (1) agreed to by the applicant, the Department, and the Planning
- 369 Board;
- 370 (2) made an express condition of any approval for subdivision under
- 371 Chapter 50 or optional method development under Chapter 59;
- 372 (3) subject to all other review and approval requirements of Chapter
- 373 50 and Chapter 59; and
- 374 (4) recorded in the County's land records.]

375 [(e) A traffic mitigation agreement may:

- 376 (1) require adequate financial security, including bonds, letters of
- 377 credit, or similar guarantees;
- 378 (2) bind future tenants of the development; and
- 379 (3) specify liquidated damages, specific performance, or other
- 380 contractual remedies, as appropriate.]

381 [(f) The Department must enforce the terms of each traffic mitigation

382 agreement. This does not limit the Planning Board's authority to revoke

383 or otherwise enforce any approvals for subdivision under Chapter 50 or

384 optional method development under Chapter 59.]

385 (a) Transportation Demand Management (TDM) Plans for Existing Non-
 386 residential Buildings.

387 (1) The Director may require an owner of a nonresidential building
 388 in a [[district]] District to submit a TDM Plan if:

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

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

394 (2) If an existing non-residential building is subject to this Section,
 395 the Director must notify the building owner that a TDM plan
 396 meeting the requirements of this Section must be submitted. As
 397 specified in the notice, the owner's plan may cover all or some
 398 employers in the building. A plan submitted under this
 399 subsection may be in addition to one an individual employer
 400 must submit.

401 (3) After receiving notice under this Section, an owner must submit
 402 a TDM Plan meeting the requirements established in the
 403 Executive Regulations for approval by the Director.

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

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

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

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

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

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

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

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

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

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

428 (d) *Resubmission of TDM Plan.* The Director may require a building
 429 owner to resubmit a plan that the Director finds inadequate to achieve
 430 any Non-Auto Driver Mode Share goals or other commuting goals [[for
 431 that district]]. Once a plan has been approved, the Director must not
 432 require a building owner to submit a revised plan that meets the
 433 requirements of this Section more than once every two years.

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

438 **42A-26. [Annual survey] Transportation Demand Management Plans for New**
 439 **Development Projects (Project-based TDM Plans).**

- 440 [(a) The Director, after consulting the appropriate Advisory Committee,
 441 must schedule an annual commuter survey, unless the Director
 442 determines that a less frequent plan is appropriate.]
- 443 [(b) The Director, after consulting the appropriate Advisory Committee,
 444 must prepare a survey that generates information to:
- 445 (1) create an accurate data base of employee commuting patterns in
 446 the district; and
- 447 (2) monitor progress toward reaching any commuting goals set in the
 448 Growth Policy.]
- 449 [(c) The Department must distribute the survey to employers based on a
 450 schedule the Director sets. Each notified employer must distribute,
 451 collect, and return the completed surveys to the transportation
 452 management organization within 45 days after receiving the surveys.]
- 453 [(d) An employer must make a good faith effort to generate survey
 454 responses from employees with the objective of achieving at least an
 455 80 percent compliance rate.]
- 456 (a) Applicability. This Section applies to any owner or applicant for a new
 457 development or construction project that submits an application for a
 458 proposed subdivision or optional method development, site plan,
 459 conditional use or building permit in a [[district]] District, but excluding
 460 any project consisting solely of single family detached housing,
 461 townhouses, or a mixture of both. All such applicants must obtain
 462 approval from the Department for a Project-based Transportation
 463 Demand Management (TDM) Plan. This approval must be obtained
 464 prior to [[Planning Board approval of the application, or prior to
 465 Department of Permitting Services approval for projects not requiring
 466 Planning Board action]] the issuance of any building permit by the

467 Department of Permitting Services. Projects subject to this Section
 468 include developments:

- 469 (1) in a Red, Orange or Yellow Subdivision Staging Policy Area and
 470 larger than the minimum sizes shown in subsection (b);
- 471 (2) that do not have a fully-executed traffic mitigation agreement in
 472 effect; and
- 473 (3) where the Department decides, under standards adopted by the
 474 Council for the adequacy of transportation, including Non-Auto
 475 Driver Mode Share goals and other commuting goals adopted in
 476 Master Plans, Sector Plans and the Subdivision Staging Policy,
 477 that more transportation facilities or transportation demand
 478 management measures are necessary to meet the County’s
 479 commuting goals.

480 (b) Levels of Project-based TDM Plans. An owner or applicant for a new
 481 development or construction project may be required to submit a Level
 482 1 TDM Basic Plan, a Level 2 TDM Action Plan, or a Level 3 TDM
 483 Results Plan based on the size and location of the project as follows:

- 484 (1) An owner or applicant for a project located in a Red Policy Area
 485 under the Subdivision Staging Policy must:
 - 486 (A) submit a Level 1 TDM Basic Plan for a project with [[at
 487 least 25,000 gross square feet, but]] less than or equal to
 488 [[100,000]] 40,000 gross square feet; and
 - 489 (B) submit a Level 3 TDM Results Plan for a project with
 490 more than [[100,000]] 40,000 gross square feet;
- 491 (2) An owner or applicant for a project located in an Orange Policy
 492 Area under the Subdivision Staging Policy must:

- 493 (A) submit a Level 1 TDM Basic Plan for a project with at
 494 least ~~[[50,000]] 40,000~~ gross square feet, but less than or
 495 equal to ~~[[100,000]] 80,000~~ gross square feet;
- 496 (B) submit a Level 2 TDM Action Plan for a project with more
 497 than ~~[[100,000]] 80,000~~ gross square feet, but less than or
 498 equal to ~~[[200,000]] 160,000~~ gross square feet; and
- 499 (C) submit a Level 3 TDM Results Plan for a project with
 500 more than ~~[[200,000]] 160,000~~ gross square feet;
- 501 (3) An owner or applicant for a project located in a Yellow Policy
 502 Area under the Subdivision Staging Policy must:
- 503 (A) submit a Level 1 TDM Basic Plan for a project with at
 504 least ~~[[75,000]] 60,000~~ gross square feet, but less than or
 505 equal to 150,000 gross square feet; and
- 506 (B) submit a Level 2 TDM Action Plan for a project with more
 507 than 150,000 gross square feet.
- 508 (4) If an adopted Master Plan or Sector Plan requires a higher Level
 509 of Project-based TDM Plan, those Master Plan or Sector Plan
 510 requirements override those described in paragraphs (1), (2), or
 511 (3).
- 512 (5) An owner or applicant for a project with a gross square feet size
 513 disproportionate to its impact on traffic (e.g., large floor area
 514 warehouses with lower impacts; small floor area food or
 515 beverage establishments with higher impacts) may be required to
 516 adhere to a Project-based TDM Plan Level that is either lower or
 517 higher than otherwise required by its size and location, in
 518 accordance with the development approval and consistent with
 519 the Executive Regulation implementing this Article.

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

527 (1) Level One: A Project-based TDM Basic Plan is not required to
 528 include specific project-based strategies other than providing
 529 information, but must implement County-led strategies at the
 530 Project and must include:

531 (A) Appointment of a Transportation Coordinator and
 532 Commitment to Cooperate with the Department's
 533 Programs. Each owner of a project must designate an
 534 individual responsible to assist and cooperate with the
 535 Department's efforts to achieve the Non-Auto Driver
 536 Mode Share goals and other traffic mitigation and
 537 commuting goals [[established for that area]]. This
 538 assistance must include distribution of information on
 539 commuting options to the on-site population; coordinating
 540 with the Department to conduct on-site commuting-related
 541 outreach events; ensuring participation in commuter
 542 surveys by the on-site population; attending occasional
 543 training sessions for Transportation Coordinators; and
 544 other duties included in the Executive Regulation.

545 (B) Notification. Each owner of a project is required to notify
 546 the Department in writing within 30 days of receipt of final
 547 Use and Occupancy certificate from the Department of

548 Permitting Services of the designated Coordinator's
 549 contact information; and within 30 days of any subsequent
 550 change in that designation or contact information.

551 (C) Access to the Project. Each owner must provide space on-
 552 site by prior arrangement with the Department to allow the
 553 Department to promote TDM, including participation in
 554 commuter surveys. Such space need not be exclusively
 555 for this purpose but must be suitable for this purpose, as
 556 determined by the Department.

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

560 (2) Level Two: A Project-based TDM Action Plan requires a
 561 commitment to take specific actions by the owner or applicant to
 562 achieve a base Non-Auto Driver Mode Share that is 5% higher
 563 than the District's NADMS goal [[specific actions]] to help the
 564 County achieve district-wide commuting goals. The Director
 565 may establish a project NADMS goal that is up to 5% higher or
 566 5% lower than the base NADMS goal in Red Policy Areas and
 567 up to 10% higher or 10% lower than the base NADMS goal in
 568 Orange and Yellow Policy Areas. The plan must include project-
 569 based strategies and demonstrate over time that the adopted
 570 strategies are contributing toward achievement of the
 571 [[district's]] commuting goals, in compliance with the Executive
 572 [[Regulations]] Regulation. A project must be considered to be
 573 contributing toward achievement of the district's commuting
 574 goals if the [[biannual]] biennial surveys of building occupants
 575 demonstrate increased on-site Non-Auto Driver Mode Share, or

576 a measurable improvement in an alternative Department-
577 approved metric, if applicable, in proportion to the level
578 necessary to achieve the project's goal by the date established in
579 the project's TDM plan. Once the NADMS goal or other
580 commuting goals have been achieved, the owner must maintain
581 the level necessary to continue achieving the goals. A Project-
582 based TDM Action Plan must include the Project-based TDM
583 Basic Plan components and the following:

584 (A) *Selection of Strategies.* The owner or applicant must
585 propose a Project-based TDM Plan that includes required
586 strategies and selected optional strategies [[from the
587 "Sample Menu of TDM Strategies" identified in the
588 Executive Regulation]]. Additional strategies may be
589 proposed by the owner or applicant and may be included
590 in the Project-based TDM Plan if approved by the
591 Department.

592 (B) *Commitment to Fund and Implement the Plan.* The owner
593 or applicant must commit to fund and implement the
594 Project-based TDM Plan at an adequate level to contribute
595 toward achievement of the [[district's]] commuting goals.

596 (C) *Self-Monitoring.* The owner or applicant must conduct
597 self-monitoring, consistent with Department
598 requirements, to determine if the Project-based TDM Plan
599 is contributing toward achievement of the [[district's]]
600 District's goals. The self-monitoring must be conducted
601 in addition to any monitoring conducted by the
602 Department.

- 603 (D) Biennial Report. Progress reports must be provided to the
604 County in alternating years, in a format consistent with
605 Department requirements.
- 606 (E) Addition and/or Substitution of Strategies. If the strategies
607 initially selected [[from the “Sample Menu of TDM
608 Strategies”]] by the owner or applicant do not result in the
609 plan contributing toward achievement of [[district]]
610 District goals by four years after Date of Final Occupancy,
611 the Department may require revisions in the project’s plan
612 using [[the “Sample Menu of TDM Strategies” or]] other
613 strategies proposed by the owner or applicant. The owner
614 or applicant must agree to implement these revised
615 strategies if required by the Department at a level
616 consistent with the owner’s commitment to fund and
617 implement the plan. This process may be repeated until
618 the project demonstrates it is contributing toward
619 achievement of district goals, consistent with the
620 Executive Regulations. Once the NADMS goal or other
621 commuting goals have been achieved, the owner must
622 maintain the level necessary to continue achieving the
623 goals.
- 624 (F) Additional Funding Commitment. If the project does not
625 contribute toward achievement of [[district]] the
626 commuting goals by six years after Date of Final
627 Occupancy, the Department may require increased
628 funding by the owner for existing or new TDM strategies
629 to be implemented at the project. The owner must commit
630 additional funds to supplement on-site strategies if

631 required by the Department. The amount of the additional
632 funding must be as established in the Executive
633 Regulation.

634 (G) [[Rewards]] Performance Incentives. The owner may be
635 eligible for annual [[rewards]] performance incentives
636 established by the Department for continued contribution
637 over multiple years toward achievement of [[district]]
638 commuting goals, including reductions in TDM fees or
639 other financial benefits, as established in the Executive
640 Regulation.

641 (3) Level Three: A Project-based TDM Results Plan requires a
642 commitment by the owner or applicant to achieve [[certain]] a
643 base Non-Auto Driver Mode Share that is 5% higher than the
644 District's goal as well as [[and]] related commuting goals at that
645 project. The plan must include project-based strategies and
646 demonstrate that the plan is achieving the goals established for
647 the project. [[Those goals may be equal to, higher or lower than
648 the [[district's]] District's goals based on project-specific
649 parameters, consistent with the Executive Regulation.]] The
650 Director may establish a project NADMS goal that is up to 5%
651 higher or 5% lower than the base NADMS goal in Red Policy
652 Areas and up to 10% higher or 10% lower than the base NADMS
653 goal in Orange and Yellow Policy Areas. The plan must be
654 submitted by the owner or applicant and approved by the
655 Department. A Project-based TDM Results Plan must include
656 the Project-based TDM Action Plan components and the
657 following:

- 658 (A) Independent Monitoring. Monitoring by a consultant
659 approved by the Department, to determine whether the
660 project is meeting its goals. This monitoring must be done
661 on a regular basis consistent with the Executive
662 Regulations.
- 663 (B) Addition and/or Substitution of Strategies. If the strategies
664 initially selected by the owner or applicant do not result in
665 the project achieving its goals by six years after Date of
666 Final Occupancy, the Department may require revisions in
667 the project’s plan using [[the “Sample Menu of TDM
668 Strategies” or]] other strategies proposed by the owner or
669 applicant. The owner or applicant must agree to
670 implement these revised strategies if required by the
671 Department at a level consistent with the owner’s
672 commitment to fund and implement the plan. This process
673 may be repeated until the project demonstrates it is
674 achieving its goals, in compliance with the Executive
675 [[Regulations]] Regulation.
- 676 (C) Additional Funding Commitment. If the strategies
677 selected by the owner or applicant do not result in
678 achievement of the project goals by six years after Date of
679 Final Occupancy, the Department may require increased
680 funding by the owner for existing or new TDM strategies
681 to be implemented at the project. Additional increases in
682 funding may be required if the goals have still not been
683 achieved by eight years after Date of Final Occupancy.
684 The owner must commit additional funds to supplement
685 on-site strategies if required by the Department. The

686 amount of the additional funding must be as established in
 687 the Executive Regulation.

688 (D) [[Rewards]] Performance Incentives. The owner may be
 689 eligible for annual [[rewards]] performance incentives
 690 established by the Department for continued achievement
 691 of project goals over multiple years, including reductions
 692 in TDM fees or other financial benefits, as established by
 693 the Executive Regulation.

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

695 (1) proposed by the owner or applicant and approved by the
 696 Department;

697 (2) made an express condition of any approval for:

698 (A) subdivision or another plan approval under Chapter 50;

699 (B) site plan or another plan approval under Chapter 59; or

700 (C) building permit for a recorded lot;

701 (3) subject to all other review and approval requirements of Chapter
 702 50 and Chapter 59, with approval of the Department required for
 703 any revisions to an approved TDM Program; and

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

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

708 (e) Enforcement. The Director must enforce the terms of each Project-
 709 based TDM Plan. This does not limit the Planning Board's authority to
 710 revoke or otherwise enforce any approvals under Chapter 50 or Chapter
 711 59. [[Where a Project-based TDM Plan is a condition of subdivision,
 712 optional method, site plan, or conditional use, the Planning Board must
 713 confirm that TDM Plan has been approved by the Director before

714 issuing final approval.]] Where a Project-based TDM Plan is a
 715 condition of building permit approval, the Department of Permitting
 716 Services must confirm that the TDM Plan has been approved by the
 717 Director prior to issuing a building permit.

718 **42A-27. [Executive report] Traffic Mitigation Agreements.**

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

- 723 (1) employee commuting patterns by employer;
- 724 (2) auto occupancy rates by employer;
- 725 (3) level of service measurements for each intersection in the policy
 726 area and selected critical intersections outside the area;
- 727 (4) parking supply and demand;
- 728 (5) status of road or intersection improvements, signal automation,
 729 improved bicycle and pedestrian access and safety, and other
 730 traffic modifications in or near the policy area;
- 731 (6) transit use and availability;
- 732 (7) carpool and vanpool use; and
- 733 (8) the source and use of any funds received under this Article.]

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

737 [(c) If any commuting goals set in the Growth Policy are not met 4 years
 738 after a district is created, the Director must recommend corrective
 739 action to the Executive. This action may include mandatory mitigation
 740 measures. If the Executive agrees that such action is necessary, the

741 Executive should propose appropriate legislation or adopt appropriate
742 regulations as authorized by law.]

743 Enforcement. The Department must enforce the terms of each traffic
744 mitigation agreement. This does not limit the Planning Board's authority to
745 revoke or otherwise enforce any approvals for subdivision under Chapter 50
746 or optional method development under Chapter 59.

747 **42A-28. [Regulations] Commuter survey and related data collection.**

748 [The Executive may adopt regulations under method (2) to implement this
749 Article.]

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

755 (b) The Director, in consultation with the appropriate Advisory Committee,
756 must prepare a survey or other data collection mechanism as necessary
757 to generate information to:

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

760 (2) monitor progress toward reaching any commuting goals set in the
761 Subdivision Staging Policy, Master Plans or Sector Plans, as
762 implemented by the Department through Executive Regulations
763 or other adopted policies and procedures.

764 (c) The Department must distribute the survey to employers; building
765 owners or managers; tenants, condominium and homeowners
766 associations; Transportation Coordinators, and others required to
767 conduct the survey or to participate in other ways in the data collection
768 process, based on a schedule the Director sets. The Department may

769 also collect commuting data through other available mechanisms in
 770 addition to or in place of the commuter survey.

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

777 (e) Any entity required to participate in the commuting survey, or to
 778 participate in data collection through another mechanism, must make a
 779 good faith effort to generate survey responses or other data from their
 780 target population with the objective of achieving at least a [[60]] 40
 781 percent compliance rate for an entity with a target population of either
 782 100 or more employees or 100 or more residents and 50 percent for an
 783 entity with a target population of less than 100 employees or less than
 784 100 residents. The Director may require a smaller or larger response
 785 rate from a given worksite, building, or project based on requirements
 786 for statistical validity.

787 **42A-29. [Transportation Management Fee] Executive report on [[TMDs]]**
 788 **Transportation Demand Management.**

789 [(a) *Authority.*

- 790 (1) The Council may by resolution adopted under Section 2-57A set
 791 the transportation management fee that the Department must
 792 annually charge, under the Alternative Review Procedures in the
 793 Growth Policy, an applicant for subdivision or optional method
 794 development approval in a district and each successor in interest.
- 795 (2) If the resolution creating a district authorizes the Department to
 796 charge a transportation management fee to any of the following

797 persons, the Council may, by resolution adopted under Section
 798 2-57A, set the fee that the Department must charge:

799 (A) an applicant for subdivision or optional method
 800 development in the district who is not subject to a
 801 transportation management fee under the Alternative
 802 Review Procedures in the Growth Policy and each
 803 successor in interest; and

804 (B) an owner of existing commercial and multi-unit residential
 805 property in the district.]

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

809 (1) administering the district, including review and monitoring of
 810 traffic mitigation plans under Section 42A-24 and traffic
 811 mitigation agreements under Section 42A-25; and

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

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

817 (1) portion of the cost of administering the district, including the
 818 review and monitoring of traffic mitigation plans under Section
 819 42A-24 and traffic mitigation agreements under Section 42A-25,
 820 reasonably attributable to the transportation effects of the
 821 development or property subject to the fee; and

822 (2) portion of the cost of any program implemented under Section
 823 42A-23(b), including any vehicle or other equipment necessary
 824 to carry out the program, reasonably attributable to the

825 transportation effects of the development or property subject to
 826 the fee.]

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

- 828 (1) the gross floor area, the maximum or actual number of
- 829 employees, or the average number of customers, visitors, or
- 830 patients, in a nonresidential building;
- 831 (2) the number of dwelling units, or the gross floor area, in a
- 832 residential building;
- 833 (3) the number of parking spaces associated with a building; or
- 834 (4) any other measurement reasonably related to transportation use
- 835 by occupants of, employees located in, or visitors to a particular
- 836 development or property.]

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

840 (a) By December 1 of each even-numbered year, the Director must submit
 841 to the appropriate Advisory Committee and the Planning Board a report
 842 on transportation demand management in each operating [[district]]
 843 District. The report should include the following information to the
 844 extent feasible within the constraints of available resources:

- 845 (1) employee commuting patterns by employer, building or project;
- 846 residential commuting patterns by building or project; other
- 847 commuting or travel patterns as appropriate;
- 848 (2) auto occupancy rates by employer, residential unit or other
- 849 appropriate measures;
- 850 (3) level of service measurements for each major intersection in the
- 851 policy area and selected critical intersections outside the area;
- 852 (4) parking supply and demand;

- 853 (5) status of road or intersection improvements, signal automation,
 854 bicycle and pedestrian access and safety, and other traffic
 855 modifications in or near the district;
- 856 (6) transit use and availability;
- 857 (7) carpool and vanpool use;
- 858 (8) bicycle and bikeshare use;
- 859 (9) use of other transportation modes relevant to analyzing
 860 achievement of commuting goals; [[and]]
- 861 (10) the number of electric vehicle charging stations in the area; and
- 862 (11) the source and use of any funds received under this Article.
- 863 (b) By March 1 of each odd-numbered year, the Executive must forward
 864 [[each report]] required reports to the Council. The Executive must
 865 note any area of disagreement between the Director and an Advisory
 866 Committee.
- 867 (c) If any commuting goals set in the Subdivision Staging Policy are not
 868 met eight years after a district is created or by June 30, [[2027]] 2028,
 869 whichever is later, the Director must recommend corrective action to
 870 the Executive. This action may include additional mitigation measures.
 871 If the Executive agrees that such action is necessary, the Executive
 872 should propose appropriate legislation or adopt appropriate regulations
 873 as authorized by law.

874 **42A-30. [Enforcement] Regulations.**

875 [The Department must enforce this Article. An employer that does not submit
 876 a traffic mitigation plan or provide survey data within 30 days after a second notice
 877 has committed a class C violation. An owner who does not submit a traffic
 878 mitigation plan within 30 days after a second notice has committed a class C
 879 violation. A party to a traffic mitigation agreement under Section 42A-26 who does

880 not comply with the agreement within 30 days after notice has committed a class A
881 violation.]

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

884 **42A-31. Transportation Demand Management Fee.**

885 (a) Authority.

886 (1) The Council may, by resolution adopted under Section 2-57A,
887 set the transportation demand management fee that the
888 Department must annually charge an applicant, and each
889 successor in interest, for subdivision, optional method
890 development approval, or a building permit.

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

893 (A) an applicant for subdivision or optional method approval,
894 site plan approval or a building permit in a [[district]]
895 District and

896 (B) an owner of existing commercial, industrial or multi-unit
897 residential developed property in the [[district]] District,
898 including a property where the principal use is a
899 commercial parking facility.

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

904 (1) administering the [[district]] District and TDM strategies, and
905 coordinating with projects and occupants (including employees
906 and residents) within that [[district]] District or Policy Area,
907 including review and monitoring of TDM Plans; and

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

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

914 (1) portion of the cost of administering TDM in the [[district]]
 915 District, including the review and monitoring of TDM Plans,
 916 reasonably attributable to the transportation effects of the
 917 development project or property subject to the fee; and

918 (2) portion of the cost of any program implemented under Section
 919 42A-23(b), including any vehicle or other equipment necessary
 920 to carry out the program, reasonably attributable to the
 921 transportation effects of the development project or property
 922 subject to the fee.

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

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

928 (2) the number of dwelling units, the gross square feet or the gross
 929 floor area, in a residential building;

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

931 (4) any other measurement reasonably related to transportation use
 932 by occupants of, employees located in, or visitors to a particular
 933 development or property, including property where the principal
 934 use is as a commercial parking facility.

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

939 **42A-32. Enforcement.**

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

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

950 (c) Any party [[required to]] that does not submit required reports on
 951 numbers of employees, transportation demand management plans and
 952 strategies, Non-Auto Driver Mode Share, progress toward goals, survey
 953 results or other TDM-related provisions or measurements on a timely
 954 basis has committed a class C violation.

955 (d) Any party who falsifies any required data or reports has committed a
 956 class A violation.

957 **Sec. 2. Transition.**

958 (a) Existing agreements. All traffic mitigation agreements executed under
 959 this Chapter before this Act takes effect that have not expired or
 960 terminated, remain in effect.

- 961 (b) *New building or project approvals.* No traffic mitigation agreement
962 must be required for any new building or development project approved
963 after this Act takes effect.
- 964 (c) *Projects with prior approvals.* Any building or development project
965 with an existing subdivision or optional method approval when this Act
966 takes effect where a traffic mitigation agreement was a condition of that
967 approval, may opt to be considered for re-approval of their application
968 under the amendments in Section 1 if:
- 969 (1) a traffic mitigation agreement has not yet been fully executed;
 - 970 (2) the building or project approved is larger than the minimum sizes
971 designated for each Subdivision Staging Policy Area group in
972 Section 42A-26; and
 - 973 (3) construction has not begun.

Approved:



Sidney Katz, President, County Council

12/3/19.

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date