



MEMORANDUM

November 30, 2018

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 
Glenn Orlin, Deputy Director 

SUBJECT: Bill 36-18, Transportation Management - Transportation Demand Management Plan – Amendments

PURPOSE: Public Hearing – no Council votes required

Bill 36-18, Transportation Management - Transportation Demand Management Plan – Amendments, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on November 13, 2018. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for January 31, 2019 at 9:30 a.m.

Bill 36-18 would:

- (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; and
- (2) establish the requirements for a transportation demand management plan for development in certain areas of the County.¹

Background

Bill 36-18 would expand the County's use of transportation demand management (TDM) to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote sustainability of existing and future development. The Bill would establish requirements for transportation demand management plans for new developments in certain areas of the County, make the County's approach more flexible and responsive to changing parameters in transportation and development, and increase accountability for results.

Under existing law, TDM strategies are only required for businesses and development projects in transportation management districts (TMDs). Since traffic congestion is generated countywide, and many areas outside TMDs could benefit from these strategies, the Bill would apply TDM countywide.

¹ Key search terms: #Traffic relief, traffic, transportation, transportation demand management, and multimodal transportation.

Negotiation of traffic mitigation agreements for new development projects can be protracted and jeopardize the timing of projects. Agreements under current Code provisions are fixed in time and do not allow flexibility to adapt to changing conditions. The Bill would streamline the process for approving TDM plans and increase accountability for results.

A work group comprised of representatives from the Executive Branch, Council staff, M-NCPPC, and stakeholder representatives, received input from expert consultants about experience in other jurisdictions and recommended several of the provisions included in the proposed bill. The Executive transmission memo describing the Bill is at ©39 and a PowerPoint presentation prepared by the County Department of Transportation (MCDOT) staff is at ©42.

This packet contains:

Bill 36-18

Legislative Request Report

County Executive Memo

MCDOT PowerPoint

Circle #

1

37

39

42

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Bill No. 36-18
Concerning: Transportation
Management - Transportation
Demand Management Plan -
Amendments
Revised: September 25, 2018 Draft No. 1
Introduced: November 13, 2018
Expires: May 13, 2020
Enacted: _____
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	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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 that a prospective purchaser or
 15 tenant purchase or lease a minimum number of parking spaces as a
 16 precondition to buying or leasing space or renewing a lease in a commercial
 17 or residential building. Bundling of parking does not include a parking space
 18 physically integrated with an individual leasable or sales unit if the parking
 19 space is dedicated to that unit and can be directly accessed through that unit.

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

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

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

- 26 (1) the date on which 80 percent of a building or project has been
 27 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 [public or private] business or government entity, including the County, employing 25 or more [employees and having a permanent place of business] employees including contractors at a worksite within [in] a district. [The maximum number of employees on the largest shift working in a district determines the size of the employer.] Employer does not include:

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

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

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

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

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.

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

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 [pass] passes, preferential parking for carpools or vanpools, improved bicycle and pedestrian access and safety, public transportation, and [or peak period] a parking charge.

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 [van occupied by at least 8 employees traveling together] 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.

- (a) New economic development is important to stimulate the local economy. Focusing new development in high transit-service areas is an important County land use and economic development objective.
- (b) Limited transportation infrastructure, traffic congestion, inadequate access to transit, bicycle and pedestrian [access] facilities, and safety issues impede the County's land use and economic development objectives.
- (c) Transportation demand management, in conjunction with adequate transportation facility review, planned capital improvement projects, and parking and traffic control measures, will:
 - (1) help provide sufficient transportation capacity to achieve County land use objectives and permit further economic development;
 - (2) reduce the demand for road capacity, [and] promote [traffic] safety for all users of transportation infrastructure, and improve access to transit, bicycle and pedestrian [access] facilities; and

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

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

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

(f) Transportation demand management should be consistent with any commuting goals set in the [Growth] Subdivision Staging Policy, Master Plans, and Sector Plans. TDM should [and] 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;

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

[(3)] (4) reduce air and noise pollution; and

[(4)] (5) promote traffic safety together with transit, [and] 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.

(a) The County Council by resolution may create a transportation management district [in] (TMD) in a policy area where the Subdivision

Staging Policy requires transportation review. A district may be formed from one or more Subdivision Staging Policy areas, even if they are not contiguous. [:

- (1) a Metro station policy area, which may include adjacent areas served by the same transportation network; or
- (2) an area where transportation review applies under the Growth Policy.]

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

- (1) regulating 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;
- [(3)] (4) adopting traffic and parking control measures;
- [(4)] (5) providing transit, shuttles, circulator services, or other transportation services;
- (6) implementing approved transportation-related capital projects;
- [(5)] (7) promoting or implementing transit and ridesharing incentives;
- [(6)] (8) promoting regional cooperation between the County and other government agencies;
- [(7)] (9) creating cooperative County-private sector programs to increase ridesharing and transit use; and

161 ~~[(8)]~~ (10) conducting surveys, studies, and statistical [analysis]
 162 analyses to determine the effectiveness of [traffic mitigation]
 163 transportation demand management plans and employer and
 164 building owner efforts.

165 (c) In each transportation management district, sole source contracts may
 166 be signed with, or funds granted to, one or more transportation
 167 management organizations to carry out transportation demand
 168 management programs that the Department could otherwise carry out,
 169 under Chapter 11B.

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

174 (e) Each district may have a Transportation Management District Advisory
 175 Committee if the Executive by regulation decides a Committee is
 176 necessary to carry out this Article or if the Council creates a Committee
 177 by resolution. The Executive or Council may designate any existing
 178 advisory body appointed by the Executive and confirmed by the
 179 Council to serve as a Transportation Management District Advisory
 180 Committee. The Executive must appoint, and the Council must
 181 confirm, members of any Advisory Committee. The County must not
 182 compensate members of an Advisory Committee for their services.
 183 Advisory Committee members, not otherwise public employees as
 184 defined in Chapter 19A, are not subject to the financial disclosure
 185 provisions of that Chapter.

186 **42A-24. [Traffic mitigation plans] Transportation Demand Management**
 187 **Plans for Employers.**

(a) Transportation Demand Management (TDM) Plans 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 [If an employer is subject to this Section, and] if the Council by resolution or in the [Growth] Subdivision Staging Policy has approved the use of traffic mitigation plans or TDM Plans in a given district[, the Director must notify the employer by letter that the employer must submit a traffic mitigation plan meeting the requirements of this Section].

[(b)] (2) Upon written request from the Director, an employer within a district must provide the Director with the number of full-time and part-time employees working for that organization at any workplace within the district.

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

(A) the employer is in a Red Policy Area under the Subdivision Staging 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 Subdivision Staging 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 Subdivision Staging 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

White Oak TMD.

[(c)] (4) The [traffic mitigation plan should] TDM Plan must be consistent with and contribute to the achievement of any commuting goals set in the [Growth] Subdivision Staging Policy, Master Plans, Sector Plans, and any individual project-based goals or interim 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 [traffic mitigation plan] TDM Plan may include an alternative work hours program, carpool or vanpool incentives, subsidized transit passes, preferential parking for carpools and vanpools, 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.

[(d)] (5) Each employer must submit its [traffic mitigation plan] TDM Plan within 90 days after receiving written notice from the

Director that it is required [under subsection (a)]. The Director may extend an employer's time to file a [traffic mitigation plan] TDM Plan for good cause.

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

(1) An employer may submit a consolidated [traffic mitigation plan] 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 [traffic mitigation plan] 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.

[(f)] (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 for that district. 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.

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

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

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

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

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

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

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

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

(2) After receiving notice under this Section, an owner of a residential building must submit a traffic mitigation plan that meets the requirements applicable to an employer.]

[(h) The Director must offer to help employers and owners prepare traffic mitigation plans.]

[(i) The Director must:

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

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

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

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

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

[(b) A traffic mitigation agreement must specify transportation demand management measures that the applicant or a responsible party must

321 carry out. The measures must be calculated to ensure that public
 322 transportation will be adequate to meet commuting goals set in the
 323 Annual Growth Policy.]

324 [(c) A traffic mitigation agreement may require:

- 325 (1) naming a transportation coordinator;
- 326 (2) limits on parking spaces;
- 327 (3) peak period or single-occupancy vehicle parking charges;
- 328 (4) preferential parking for carpools and vanpools;
- 329 (5) subsidies for employees not using single-occupancy vehicles;
- 330 (6) financial or other participation in building or operating on- or off-
 331 site transportation facilities or systems;
- 332 (7) providing space on a periodic basis for marketing and
 333 promotional activities of the district;
- 334 (8) designating permanent areas in prominent locations to display
 335 information on commuting options; or
- 336 (9) other transportation demand management measures.]

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

- 338 (1) agreed to by the applicant, the Department, and the Planning
 339 Board;
- 340 (2) made an express condition of any approval for subdivision under
 341 Chapter 50 or optional method development under Chapter 59;
- 342 (3) subject to all other review and approval requirements of Chapter
 343 50 and Chapter 59; and
- 344 (4) recorded in the County's land records.]

345 [(e) A traffic mitigation agreement may:

- 346 (1) require adequate financial security, including bonds, letters of
 347 credit, or similar guarantees;

- (2) bind future tenants of the development; and
- (3) specify liquidated damages, specific performance, or other contractual remedies, as appropriate.]

[(f) 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.]

(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 for

that district. 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. [Annual survey] Transportation Demand Management Plans for New Development Projects.

- [(a) The Director, after consulting the appropriate Advisory Committee, must schedule an annual commuter survey, unless the Director determines that a less frequent plan is appropriate.]

- [(b) The Director, after consulting the appropriate Advisory Committee, must prepare a survey that generates information to:

- (1) create an accurate data base of employee commuting patterns in the district; and
- (2) monitor progress toward reaching any commuting goals set in the Growth Policy.]

- [(c) The Department must distribute the survey to employers based on a schedule the Director sets. Each notified employer must distribute, collect, and return the completed surveys to the transportation management organization within 45 days after receiving the surveys.]

- [(d) An employer must make a good faith effort to generate survey responses from employees with the objective of achieving at least an 80 percent compliance rate.]

- (a) Applicability. This Section applies to any 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. 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 Planning Board approval of the application, or prior to Department of Permitting Services approval for projects not requiring Planning Board action. Projects subject to this Section include developments:

- (1) in a Red, Orange or Yellow Subdivision Staging 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 Subdivision Staging 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 Subdivision Staging Policy must:

(A) submit a Level 1 TDM Basic Plan for a project with at least 25,000 gross square feet, but less than or equal to 100,000 gross square feet; and

(B) submit a Level 3 TDM Results Plan for a project with more than 100,000 gross square feet;

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

(A) submit a Level 1 TDM Basic Plan for a project with at least 50,000 gross square feet, but less than or equal to 100,000 gross square feet;

(B) submit a Level 2 TDM Action Plan for a project with more than 100,000 gross square feet, but less than or equal to 200,000 gross square feet; and

(C) submit a Level 3 TDM Results Plan for a project with more than 200,000 gross square feet;

(3) An owner or applicant for a project located in a Yellow Policy Area under the Subdivision Staging Policy must:

(A) submit a Level 1 TDM Basic Plan for a project with at least 75,000 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 feet 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) 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 established for that area. 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 by the owner or applicant to specific actions to help the County achieve district-wide commuting goals. The plan must include project-based strategies and demonstrate over time that the adopted strategies are contributing toward achievement of the district's commuting goals, in compliance with the

Executive Regulations. A project must be considered to be contributing toward achievement of the district's commuting goals if the biannual 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 goal by the date established in the project's TDM plan. A Project-based TDM Action Plan must include the Project-based TDM Basic Plan components and the following:

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

(B) Commitment to Fund and Implement the 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 district's commuting goals.

(C) 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.

(D) Biennial Report. Progress reports must be provided to the County in alternating years, in a format consistent with Department requirements.

(E) Addition and/or Substitution of Strategies. If the strategies initially selected from the “Sample Menu of TDM Strategies” by the owner or applicant do not result in the plan contributing toward achievement of district goals by four years after Date of Final Occupancy, the Department may require revisions in the project’s plan using the “Sample Menu of TDM Strategies” or 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.

(F) Additional Funding Commitment. If the project does not contribute toward achievement of district 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) Rewards. The owner may be eligible for annual rewards established by the Department for continued contribution over multiple years toward achievement of district 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 certain Non-Auto Driver Mode Share and 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. Those goals may be equal to, higher or lower than the district's goals based on project-specific parameters, consistent with the Executive Regulation. 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 the "Sample Menu of TDM

Strategies” or 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 Regulations.

(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) *Rewards.* The owner may be eligible for annual rewards 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:

- 638 (1) proposed by the owner or applicant and approved by the
 639 Department;
- 640 (2) made an express condition of any approval for:
- 641 (A) subdivision or another plan approval under Chapter 50;
 642 (B) site plan or another plan approval under Chapter 59; or
 643 (C) building permit for a recorded lot;
- 644 (3) subject to all other review and approval requirements of Chapter
 645 50 and Chapter 59, with approval of the Department required for
 646 any revisions to an approved TDM Program; and
- 647 (4) recorded in the County's land records.

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

- 651 (e) *Enforcement.* The Director must enforce the terms of each Project-
 652 based TDM Plan. This does not limit the Planning Board's authority to
 653 revoke or otherwise enforce any approvals under Chapter 50 or Chapter
 654 59. Where a Project-based TDM Plan is a condition of subdivision,
 655 optional method, site plan, or conditional use, the Planning Board must
 656 confirm that TDM Plan has been approved by the Director before
 657 issuing final approval. Where a Project-based TDM Plan is a condition
 658 of building permit approval, the Department of Permitting Services
 659 must confirm that TDM Plan has been approved by the Director prior
 660 to issuing a building permit.

661 **42A-27. [Executive report] Traffic Mitigation Agreements.**

- 662 [(a) By December 1 of each even-numbered year, the Director must submit
 663 to the appropriate Advisory Committee and the Planning Board a report

on transportation demand management in each district. The report should include:

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

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

[(c) If any commuting goals set in the Growth Policy are not met 4 years after a district is created, the Director must recommend corrective action to the Executive. This action may include mandatory 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.]

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. [Regulations] Commuter survey and related data collection.

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

(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 in the district; and

(2) monitor progress toward reaching any commuting goals set in the Subdivision Staging 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 60 percent compliance rate.

42A-29. [Transportation Management Fee] Executive report on TMDs.

[(a) *Authority.*

- (1) The Council may by resolution adopted under Section 2-57A set the transportation management fee that the Department must annually charge, under the Alternative Review Procedures in the Growth Policy, an applicant for subdivision or optional method development approval in a district and each successor in interest.
- (2) If the resolution creating a district authorizes the Department to charge a transportation management fee to any of the following persons, the Council may, by resolution adopted under Section 2-57A, set the fee that the Department must charge:
 - (A) an applicant for subdivision or optional method development in the district who is not subject to a transportation management fee under the Alternative Review Procedures in the Growth Policy and each successor in interest; and
 - (B) an owner of existing commercial and multi-unit residential property in the district.]

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

- 746 (1) administering the district, including review and monitoring of
 747 traffic mitigation plans under Section 42A-24 and traffic
 748 mitigation agreements under Section 42A-25; and
- 749 (2) any program implemented under Section 42A-23(b), including
 750 any vehicle or other equipment necessary to carry out the
 751 program.]

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

- 754 (1) portion of the cost of administering the district, including the
 755 review and monitoring of traffic mitigation plans under Section
 756 42A-24 and traffic mitigation agreements under Section 42A-25,
 757 reasonably attributable to the transportation effects of the
 758 development or property subject to the fee; and
- 759 (2) portion of the cost of any program implemented under Section
 760 42A-23(b), including any vehicle or other equipment necessary
 761 to carry out the program, reasonably attributable to the
 762 transportation effects of the development or property subject to
 763 the fee.]

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

- 765 (1) the gross floor area, the maximum or actual number of
 766 employees, or the average number of customers, visitors, or
 767 patients, in a nonresidential building;
- 768 (2) the number of dwelling units, or the gross floor area, in a
 769 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.]

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

(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; and

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

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

(c) If any commuting goals set in the Subdivision Staging Policy are not met eight years after a district is created or by June 30, 2027, 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. [Enforcement] Regulations.

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

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.

(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:

(A) an applicant for subdivision or optional method approval, site plan approval or a building permit in a district; and

(B) an owner of existing commercial, industrial or multi-unit residential developed property in the district, 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 in the transportation management district in which the development or property subject to the fee is located to cover the cost of:

(1) administering the district and TDM strategies, and coordinating with projects and occupants (including employees and residents) within that district or Policy Area, including review and monitoring of TDM Plans; and

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

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

(1) portion of the cost of administering TDM in the district, including the review and monitoring of TDM Plans, reasonably

850 attributable to the transportation effects of the development
 851 project or property subject to the fee; and

- 852 (2) portion of the cost of any program implemented under Section
 853 42A-23(b), including any vehicle or other equipment necessary
 854 to carry out the program, reasonably attributable to the
 855 transportation effects of the development project or property
 856 subject to the fee.

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

- 859 (1) the gross square feet, the gross floor area, the maximum or actual
 860 number of employees, or the average number of customers,
 861 visitors, or patients, in a nonresidential building;
 862 (2) the number of dwelling units, the gross square feet or the gross
 863 floor area, in a residential building;
 864 (3) the number of parking spaces associated with a building; or
 865 (4) any other measurement reasonably related to transportation use
 866 by occupants of, employees located in, or visitors to a particular
 867 development or property, including property where the principal
 868 use is as a commercial parking facility.

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

873 **42A-32. Enforcement.**

- 874 (a) The Department must enforce this Article. An employer, owner,
 875 building or project manager or other responsible party subject to
 876 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 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 required to 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. Transition.

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

(b) *New building or project approvals.* No traffic mitigation agreement must be required for any new building or development project approved after this Act takes effect.

(c) *Projects with prior approvals.* Any building or development project with an existing subdivision or optional method approval when this Act takes effect where a traffic mitigation agreement was a condition of that approval, may opt to be considered for re-approval of their application under the amendments in Section 1 if:

(1) a traffic mitigation agreement has not yet been fully executed;

904 (2) the building or project approved is larger than the minimum sizes
 905 designated for each Subdivision Staging Policy Area group in
 906 Section 42A-26; and

907 (3) construction has not begun.

908

909 *Approved:*

910

Hans D. Riemer, President, County Council	Date
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911 *Approved:*

912

Isiah Leggett, County Executive	Date
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913 *This is a correct copy of Council action.*

914

Megan Davey Limarzi, Esq., Clerk of the Council	Date
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LEGISLATIVE REQUEST REPORT

Bill 36-18

Transportation Management – Transportation Demand Management - Amendments

DESCRIPTION: Bill 36-18 would expand the County's use of transportation demand management (TDM) to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure and promote sustainability of existing and future development. The Bill would establish requirements for transportation demand management plans for new developments in certain areas of the County, make the County's approach more flexible and responsive to changing parameters in transportation and development, and increase accountability for results.

PROBLEM: Under existing law, TDM strategies are only required for businesses and development projects in transportation management districts (TMDs). Since traffic congestion is generated countywide, and many areas outside TMDs could benefit from use of these strategies, the Bill would apply TDM countywide.

Negotiation of traffic mitigation agreements for new development projects can be protracted and jeopardize the timing of projects. Agreements under current Code provisions are fixed in time and do not allow flexibility to adapt to changing conditions. The process for approving TDM plans needs streamlining, flexibility, and enhanced accountability for results.

GOALS AND OBJECTIVES: Extension of TDM strategies to settings outside existing TMDs. Streamlining of process for development project TDM plan approvals. Provide flexibility in TDM strategies to be used at projects, both initially and over time. Clarify requirements, increase effectiveness and accountability. Provide incentives and disincentives to promote goal achievement.

COORDINATION: Departments of Permitting Services, Finance, Environmental Protection, OMB; M-NCPPC

FISCAL IMPACT: To be provided

ECONOMIC IMPACT: To be provided

EVALUATION: To be provided

**EXPERIENCE
ELSEWHERE:**

Many U.S. jurisdictions have transportation demand management requirements in place, including the District of Columbia and Arlington County. The County has had elements of TDM included in the Code for many years, but an improved approach was desired. A work group comprised of representatives from the Executive Branch, Council staff, M-NCPPC, and stakeholder representatives, received input from expert consultants about experience in other jurisdictions and recommended several of the provisions included in the proposed bill.

**SOURCE OF
INFORMATION:**

Department of Transportation –
Chris Conklin, Deputy Director for Transportation Policy, 240-777-7198
Gary Erenrich, Special Assistant to the Director, 240-777-7156
Sandra Brecher, Commuter Services Section Chief, 240-777-8383

**APPLICATION
WITHIN
MUNICIPALITIES:**

Chapter 42A does not apply within municipalities

PENALTIES:

N/A

F:\LAW\BILLS\1836 Transportation Demand Mgmt. Plan\LRR.docx



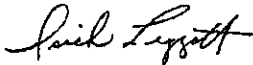
OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 19, 2018

TO: Hans Riemer, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Bill xx-18: Transportation Management – Transportation Demand Management Plan – Amendments

The purpose of this memorandum is to transmit for the County Council's approval Amendments to Chapter 42A, Article II of the Montgomery County Code that relate to Transportation Demand Management.

Transportation demand management (TDM) encompasses a wide variety of strategies to reduce the demand for road capacity and promote use of alternatives to solo driving. Research has shown it to be one of the most effective tools for reducing traffic congestion. The proposed bill would expand the County's use of 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 sustainability of existing and future development. It will establish requirements for transportation demand management plans for new developments in certain areas of the County and make the County's approach more flexible and responsive to changing parameters in transportation and development, while at the same time increasing accountability for results.

Over the past two years the County Department of Transportation has worked with a diverse group of representatives from multiple Executive Branch agencies, County Council staff, the Maryland-National Capital Park and Planning Commission, consultants, many advisory committees and representatives from the civic, business and developer communities to discuss how to improve the TDM approach used by the County. The goals of the effort were to streamline the process for TDM plan approvals, provide flexibility in strategies including the ability to adjust them over time, and ensure fairness by clarifying requirements including costs and improving consistency in application. In addition, an overriding goal was to increase the effectiveness of TDM in achieving the County's transportation goals, by extending these approaches to a broader portion of the County; improving accountability through monitoring, reporting and enforcement; and providing incentives and disincentives to promote goal achievement.

The result of this effort is the proposed legislation submitted herein. Key provisions include the following:

- Broader application of TDM, based on Transportation Policy Areas. Under existing Code, TDM strategies are required only in existing transportation management districts (TMDs). Since traffic congestion is generated countywide, and many areas outside TMDs could benefit from use of these strategies, TDM should be applied more broadly. Transportation Policy Areas adopted as part of the Subdivision Staging Policy form the basis for a tiered approach, with the highest-level requirements in the Red Policy Areas, mid-range requirements in the Orange Policy Areas, and the lowest-level requirements in the Yellow Policy Areas. Green Policy Areas, which are not planned for significant new business or development activity generating significant traffic impacts, are not included. Likewise, existing or proposed single family detached developments are not included in the proposed expansion of TDM.
- Revised approach to TDM for new development projects, eliminating TMAGs. Current Code requires new development projects within TMDs to have a traffic mitigation agreement (TMAG), if the Planning Board and MCDOT jointly decide one is necessary to achieve commuting goals for that area. The requirement for an agreement is included as a condition of development approval by the Planning Board. TMAGs are negotiated by developers with MCDOT and the Planning Board; those negotiations have at times become protracted, consuming significant time for all parties and potentially jeopardizing timing of projects. Our public outreach to the development community indicated a concern that the current practice may not treat every development the same since each development generates its own TMAG.

The proposed Code revisions would streamline this process, make it more flexible, and provide increased accountability. Certain basic TDM strategies would be required of all new projects over a certain minimum size, based on the Policy Area classification. Developers of projects over a certain size would select additional TDM strategies they determine would work best for their project. These would be incorporated into a "Project-based TDM Plan."

Once occupied, projects would have several years to demonstrate the effectiveness of their plan. Mid-sized projects in Orange or Yellow Policy Areas would be required to contribute toward achieving the goals for that Policy Area or TMD. Larger-sized projects in Red or Orange Policy Areas would be required to achieve the goals for that Policy Area or TMD. If they are not meeting the standard for success (either contributing toward or achieving the goals) they would be required to add or change strategies – and could be required to provide added resources to their on-site program to increase its effectiveness. Projects achieving the goals would be eligible for reduced TDM fees.

A summary of the proposed requirements for new projects of various sizes in each Policy Area classification is included as a chart entitled "TDM Plan Components for New Development Projects," on page 8 of Attachment A.

Hans Riemer, Council President
September 19, 2018
Page 3

- Extension of TDM to businesses outside existing TMDs. Under existing Code requirements, employers of 25 or more employees in a transportation management district are required to file a traffic mitigation plan showing what TDM strategies they will use to encourage non-auto commuting.

The proposed legislation retains these existing provisions and extends them to additional areas of the County. Workforce size thresholds are based on the color classification of the Policy Area where the workplace is located. In Red Policy Areas employers of 25 or more workers would be required to file; in Orange Areas, 50 or more workers; and in Yellow Areas 100 or more workers. Known under current Code as "traffic mitigation plans," these would now be called "TDM Plans for Employers."

Existing non-residential buildings and multi-unit residential buildings of at least 100 units in a TMD also can be required under current Code to file traffic mitigation plans committing them to implement TDM strategies. These provisions have been retained but the plans would now be called "TDM Plans for Existing Buildings."

Attachment A to this memorandum is a PowerPoint summary of the proposed legislation. This overview has been presented to multiple stakeholder groups and other interested parties and posted on the Department of Transportation website. Attachment B is a draft Executive Regulation. While still in preliminary form, it provides a fuller picture of how the Executive Branch plans to implement provisions contained in the proposed legislation. A revised version of this Executive Regulation will be submitted for Council approval under Method 2 once the bill has been adopted.

The proposed bill is hereby transmitted for the Council's review and consideration. The Legislative Request Report is included as Attachment C; Fiscal and Economic Impact Statements will be provided prior to the public hearing. I recommend prompt passage of this bill to advance these programs. Please direct any questions to Chris Conklin, Deputy Director for Transportation Policy at the Department of Transportation at (240) 777-7198.

Attachments (3)

Attachment A: "NextGen TDM – Proposed Code Changes and Executive Regulation Provisions"

Attachment B: Draft Executive Regulation

Attachment C: Legislative Request Report

cc: Al Roshdieh, Director, Montgomery County Department of Transportation
Casey Anderson, Chair, Montgomery County Planning Board



Montgomery County Department of Transportation

NextGen TDM

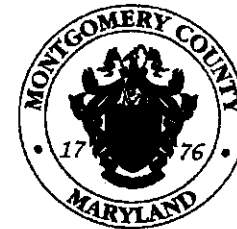
Proposed Code Changes & Executive Regulation

Supporting Transportation Demand Management
And Multi-Modal Options



For New Developments,
Employers and Multi-Unit Residential Projects

Better Ways To Work!
Montgomery County Commuter Services



NextGen TDM – Goals of the Effort

➤ Streamline Process

- Reduce need for negotiation during development process
- Shorten time for approval of TDM programs

➤ Provide Flexibility

- Provide more choices of TDM strategies, tailored to type of project, geography, availability of transportation options
- Provide ability to make adjustments, change strategies over time

➤ Ensure Fairness

- Clarify requirements, including costs to the project
- Improve consistency and predictability

➤ Increase Effectiveness

- Extend TDM/multi-modal approaches to broader segment of the County
- Improve monitoring, reporting & enforcement
- Provide incentives/disincentives to promote goal achievement
- Enhance ability to achieve County's transportation goals

NextGen TDM – Overview

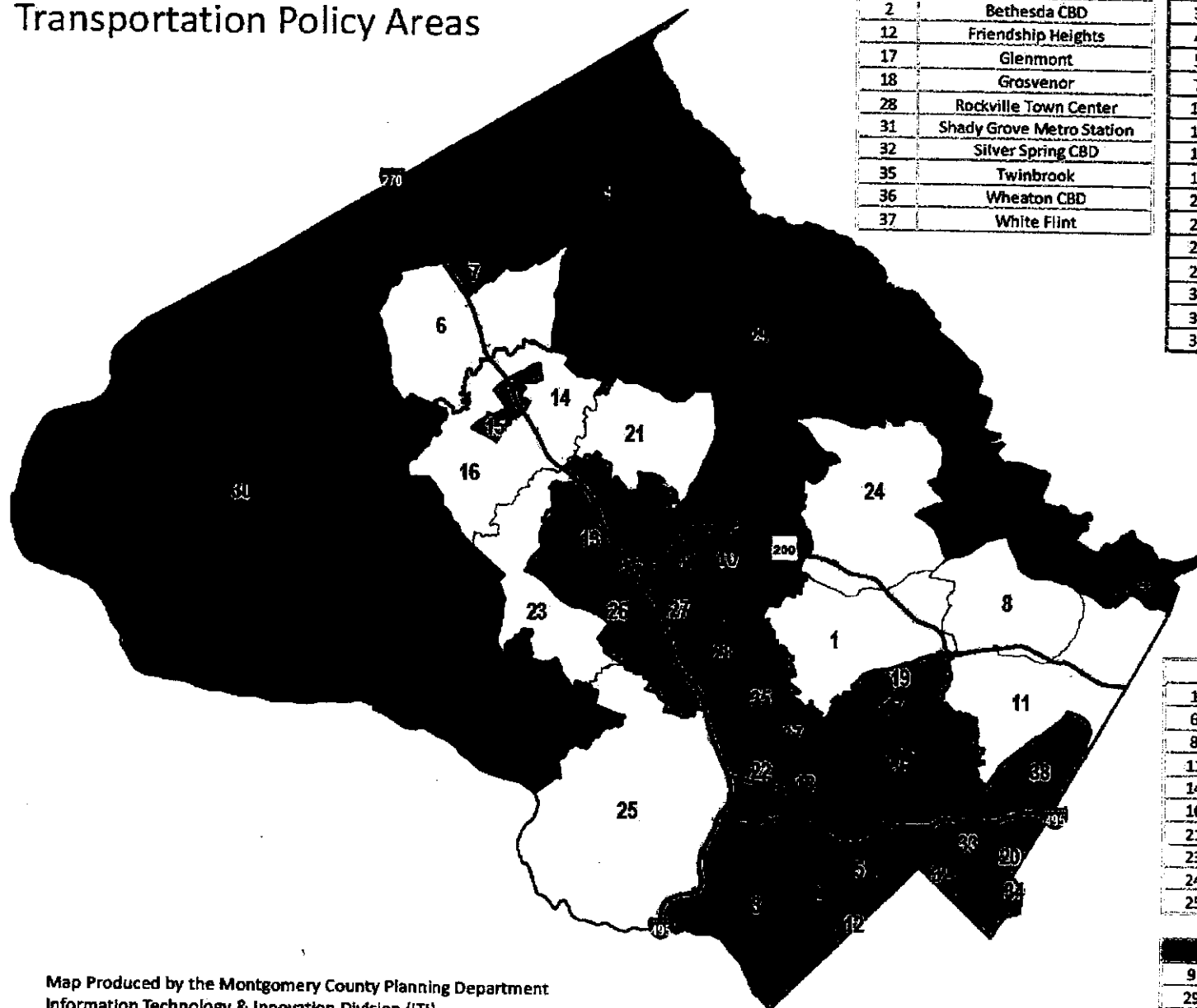
➤ Two Components

- Revisions to Chapter 42A, Article II of County Code:
“Transportation Demand Management”
- Accompanying Executive Regulation (Method 2)

➤ Approach

- Maintain/enhance shared responsibility for implementing TDM
 - County, developers, employers, property owners, residents, public
- Leave current Transportation Management Districts (TMDs) as they are
- Establish a Countywide TDM program - & allow for Countywide TMD(s)
- Revise Code to improve processes & include flexibility for future changes
 - Eliminate TMAgs for New Developments – TDM Plans provide greater flexibility
 - Extend TDM Plan requirement to broader segment of employers
- Adopt Executive Regulation to clarify implementation
 - Enable TDM strategies to be added, revised
 - Enable other implementation adjustments over time without legislation

Montgomery County Transportation Policy Areas



2	Bethesda CBD
12	Friendship Heights
17	Glenmont
18	Grosvenor
28	Rockville Town Center
31	Shady Grove Metro Station
32	Silver Spring CBD
35	Twinbrook
36	Wheaton CBD
37	White Flint

3	Bethesda/Chevy Chase
4	Burtonsville Town Center
5	Chevy Chase Lake Master Plan
7	Clarksburg Town Center
10	Derwood
13	Gaithersburg City
15	Germantown Town Center
19	Kensington/Wheaton
20	Long Branch Sector Plan
22	North Bethesda
26	R&D Village
27	Rockville City
33	Silver Spring/Takoma Park
34	Takoma/Langley
38	White Oak

Yellow	
1	Aspen Hill
6	Clarksburg
8	Clovery
11	Fairland/Colesville
14	Germantown East
16	Germantown West
21	Montgomery Village/Airpark
23	North Potomac
24	Olney
25	Potomac

9	Damascus
29	Rural East
30	Rural West

Map Produced by the Montgomery County Planning Department
Information Technology & Innovation Division (ITI)
August 2, 2018

NON-AUTO DRIVER MODE SHARE (NADMS) GOALS

	Transportation Policy Area	NADMS Employees	NADMS Residential
2	Bethesda TMD	55% blended for residents and workers	
5	Chevy Chase Lake Master Plan Area	36 %	49%
12	Friendship Heights TMD	39%	
	Great Seneca Science Corridor Master Plan	18% before Stage 2 23% before Stage 3 28% before Stage 4	
	Greater Shady Grove TMD	12.5% transit	25% transit elsewhere
31			35% transit in Shady Grove Metro Station Policy Area
18	Grosvenor Strathmore Metro Area	Blended goal 50%	
	Long Branch Sector Plan	36%	49%
	Lyttonsville Sector Plan		50%
35	Twinbrook Metro Area / North Bethesda TMD	39%	30%
	Rock Spring Master Plan	23%	41%
32	Silver Spring TMD	46% existing 50% new	
37	White Flint / North Bethesda TMD	34% for Phase 1 for Plan area 42% for Phase 2 for Plan area 50% employees for Phase 3	51% for residents for Phase 3
37	White Flint 2 / North Bethesda TMD	34% Phase 1 27% Phase 1 east of tracks 42% Phase 2 35% Phase 2 east of tracks 50% Phase 3 42% Phase 3 east of tracks	34% Phase 2 27% Phase 1 east of tracks 42% Phase 2 35% Phase 2 east of tracks 51% Phase 3 42% phase 3 east of tracks
	White Oak	25% all new commercial and residential development in the White Oak Center and Hillandale Center 30% all new commercial and residential development in the Life Science/FDA Village Center	
36	Wheaton CBD	30%	
	Areas Without Specific Goals	5% above existing NADMS	5% above existing NADMS

46

Changes to Chapter 42A, Article II – Transportation Demand Management

- Incorporates Subdivision Staging Transportation Policy Areas/Color Categories
- Eliminates Traffic Mitigation Agreements for New Developments
- Instead: New developments - required to have TDM Plan with varying minimum sizes:

Red – 25K GSF

Yellow – 75K GSF
- Three Levels of Project-based TDM Plans: Basic, Action, Results

Subdivision Staging Policy Area	No Requirements	Level 1: TDM Basic Plan	Level 2: TDM Action Plan	Level 3: TDM Results Plan
Red Areas	<25K GSF	25K – 100K GSF	Not Applicable	>100+K GSF
	<50K GSF	50K – 100K GSF	>100-200K GSF	>200+K GSF
Yellow Areas	<75K GSF	75K – 150K GSF	>150K GSF	TDM Results Plan not required – May be used upon Applicant request

TDM Program Levels

- Basic Program – Bare minimum
 - Appoint contact person, coordinate/cooperate with County program efforts
 - Facilitate outreach to on-site population
 - Provide Real Time and other TDM-related information
 - Otherwise relies on County programs
- Action Program – Mid-range commitment: Must contribute to achieving TMD goal
 - Commitment to implement specific strategies (some required, some applicant-selected)
 - Minimum funding commitment for on-site program as necessary to achieve progress
 - Self-monitoring, reporting
 - Addition/substitution of program elements if progress is not being made
 - Modest increases required in funding of on-site program for non-performance
 - Rewards for ongoing performance
- Results Program – Highest level commitment: Must achieve TMD/Project goal
 - All the above plus:
 - Independent monitoring
 - More substantial increases in on-site funding if goal not met after multiple monitoring periods
 - Rewards for ongoing goal achievement

TDM Plan Components For New Development Projects

Subdivision Staging Policy Area (Order Classification)	No Requirements	Level 1 TDM Basic Plan	Level 2 TDM Action Plan	Level 3 TDM Rewards Plan
Red Areas				
Orange Areas	<50K GSF	50K – 100K GSF	>100-200K GSF	>200+K GSF
Green Areas				
Required TDM Plan Components				
Facilitate outreach/information to on-site population		X	X	X
Coordinate/Cooperate with County program efforts		X	X	X
Minimum Financial Commitment to Support On-Site Program			50% of Annual TDM Fee	100% of Annual TDM Fee
Independent Monitoring – Beginning in 6th year				X
Addition/Substitution of TDM Strategies (Beginning 4th year if needed)			X	X
Rewards – For 10 years of ongoing progress/goal achievement			50% of Annual TDM Fee for Contributing toward TMD Goal Achievement	50% of Annual TDM Fee for TMD Goal Achievement

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	A	B	D	E	F	G	H	I	J
2		Sample Menu of TDM Strategies*							
3	SIZE OF BUILDING/PROJECT:	25K - 100K GSF	100K + GSF	50K - 100K GSF	100K - 200K GSF	200 + GSF	75K - 100K GSF	100K + GSF	100K + GSF
4	COLOR CATEGORY OF SUBDIVISION STAGING POLICY AREA:								
5	TYPE OF TDM PROGRAM:	BASIC	RESULTS	BASIC	ACTION	RESULTS	BASIC	YELLOW ACTION	RESULTS (Optional)
6									
7	TDM STRATEGIES								
8	A. Cooperation/Marketing & Education								
9	Participate in County-wide and Regional Events	X	X	X	X	X	X	X	X
10	Transportation Coordinator / Training + Responsibilities	X	X	X	X	X	X	X	X
11	Notification of Changes In Contacts	X	X	X	X	X	X	X	X
12	On-Site Space for TDM Outreach & Promotion	X	X	X	X	X	X	X	X
13	Displays of Real Time & Other TDM Information	X	X	X	X	X	X	X	X
14									
15	B. Parking								
16	Provide Less than Max # of Spaces [use percentages?]	X	X	H	H	H	H	H	O
17	Unbundle Parking From Lease Arrangements	X	X	H	H	H	H	H	O
18	Unassigned/Unreserved Spaces (Except car/vanpool, carshare, EV)	H	H	H	H	H	H	H	O
19	Market-Rate Parking Charges for Employees/Residents	H	H	O	H	H	O	O	O
20	Carpool/Vanpool Parking - Preferentially Located Spaces	X	X	X	X	X	X	X	X
21	Parking Cash-Out (Employer-owned projects)	O	O	O	O	O	O	O	O
22									
23	C. Onsite Bicycle & Pedestrian Support								
24	Bikeshare Participation (memberships, bikeshare stations, etc.)	H	H	O	O	H	O ^a	O ^a	O
25	Secure Bicycle Parking (> required under Zoning Ordinance)	O	X	O	X	X	O	O	O
26	Bicycle Repair Station(s)	O	O	O	O	O	O	O	O
27	Shower Availability/Lockers/Changing Rooms	O	X	O	O	X	O	O	O
28	Onsite Pedestrian Amenities (i.e., benches, sidewalks, etc.) > Requ'd	O	H	O	H	H	O	O	O
29									
30	D. Amenities Supporting Commuting Alternatives								
31	On-Site Amenities (refreshments, dry cleaning, convenience retail, etc.)	O	O	O	O	O	O	O	O
32	On-Site or Nearby Child Care	O	O	O	O	O	O	O	O
33									
34	E. Transit Support								
35	Subsidized Transit Passes (e.g., SmartBenefits, etc.)	H	H	H	H	H	H	H	O
36	Provide Transit Passenger Amenities (e.g., shelters, waiting areas)	H	H	O	H	H	O	O	O
37	Shuttle Bus Services (e.g., Circulators, Microtransit)	O	H	O	O	H	O	O	O
38	Vanpool Services	H	H	O	H	H	O	H	O
39	Availability of Mid-Day Short-term Car Services	O	H	O	H	H	O	O	O
40	(i.e., Zipcar memberships, Taxi, Uber/Lyft services) for Alt Commuters								
41									
42	F. Employee & Resident Incentives (Recommended Owner/Manager Funding Allocations)								
43	>\$50 - \$100 per employee/resident per year	O	O	O	O	O	H	H	O
44	>\$100 - \$200 per employee/resident per year	O	O	H	H	H	O	O	O
45	>\$200 per employee/resident per year	H	H	O	O/H ^b	H	O	O	O
46									
47	NOTES: X = Required; O = Optional; H = Highly Effective-Recommended for Highly Effective Program								
48									
49	Red Policy Areas: TDM Action Program = Not Available								
50	Yellow Policy Areas: TMD Results Program = Optional								
51	<i>a - Bikeshare in areas without existing program could provide own program or dockless bikeshare program support</i>								
52	<i>b - If don't meet goals after 5 years, increase to \$200/employee/year</i>								
53	* Note: Determination of which strategies are required or optional in each area to be discussed/further analyzed for evaluation of impacts.								
54	Additional/new strategies may be added by project owners, developers, employers, residential managers, MCDOT or others.								
55	Evaluation of impacts will be important to assess, but new approaches are welcome.								

Employer TDM Plans

Change in Terminology + Expansion of Required TDM Plans to More Employers

Current Code Requirements:

Only employers located in TMDs who have 25 or more employees are required to file a
“Traffic Mitigation Plan” (TMP)

TMPs would now be called an **Employer TDM Plans** & have similar requirements.

Employers of 25+ in these areas are currently required by Code to:

- ✓ File a report on the TDM measures they are implementing
- ✓ Participate in the Annual Commuter Survey

MCDOT provides online templates for the TMP and the Annual Report

The Plan can be completed and filed online – see template shown on next slides

Proposed Change to Code:

Extend Employer TDM Plans Countywide in these Policy Areas

for employers of the following sizes:

Red – 25 workers



Yellow – 200 workers



SAMPLE EMPLOYER TRAFFIC MITIGATION PLAN (TMP)

Employer Name: Company ABC, Inc.
Address: 0000 Main Street, Rockville, MD 20850
Full time employees: 80 **Part Time Employees:** 10
Strategies # 1 – 8 are required.

No.	TRAFFIC MITIGATION STRATEGY	EMPLOYER DESCRIPTION
1	Contact person designated to receive and distribute information	Mary Jenkins, Executive Assistant 301-444-4444 maryjenkins@abc.com We will notify the TMD in writing of any changes in this information.
2	Information on transit/pooling/other commute alternatives distributed/posted regularly (furnished by TMD)	Information on transit/ carpooling/other commute alternatives is posted regularly in the employee break area.
3	Facilitate TMD staff presentations to employees and HR/Administrative staff on commuter information/alternatives on periodic basis.	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.
4	Guaranteed Ride Home Promotion (free regional program offering emergency rides)	We will promote the Guaranteed Ride Home program to our employees. We will provide brochures.
5	Annual Commuter Survey distributed to employees (short survey of transportation-supplied by TMD). Please describe you approach to gaining 80% participation for your employees.	We will distribute the survey to employees and offer small incentives to complete.
6	ADA information provided (transportation services for people with disabilities)	We will provide disabled employees with information on the regional Metro Access program.
7	Permanent display area for TMD-provided bus schedules and other worksite and other transportation information	We plan to display a transit map and brochure in our employee break area.
8	Compile information on yearly TMP activities and submit Annual Report	We will keep on our TMP activities and submit an Annual Report.

Additional TDM Strategies – To Be Selected by Employers

9	Attendance at free CSS-sponsored meetings/workshops permitted for designated contact person	We will allow Tracy Smith to attendance free CSS-sponsored meetings or workshops permitted as her schedule permits.	17	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.
10	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 TMD in new employee orientation packages.	18	Alternative work schedules. Indicate which one(s) you offer: Flex time, Jobsharing, Compressed Work week or Telecommute/Teleworking	We do not offer alternative work schedules at this time.
11	Free or reduced rate parking for car/vanpools offered to employees	Carpoolers can park for free.	19	Monthly transit subsidies provided to employees. Indicate the amount of pre-tax and amount of direct benefits you provide. Indicate if the pre-tax or direct benefit is more or less than you provided last year, and if so how much (as a percent or dollar amount).	We participate in the SmartBenefits program with WMATA.
12	Preferred location and/or reserved parking for car/vanpools offered to employees	The 2 spaces reserved for carpools are in preferred locations.	20	Maryland State Commuter Tax Credit for employers For more information visit the website http://www.commuterchoicemaryland.com/taxcredit.htm	We take advantage of the commuter tax credit.
13	Provision of car sharing space in highly visible location within on-site parking facility.	We will look into providing this in the future.	21	Pre-tax payroll deduction for transit costs offered to employees (saves employer and employee money)	We plan to offer pre-tax payroll deductions for transit costs in the future.
14	Provision of car sharing incentives, including paying part or all of membership costs, rental costs, or similar incentives	We only promote car sharing at this time but plan to subsidize membership costs in the future.	22	Transit passes offered for purchase at worksite (at full or reduced price)	We sell SmarTrip cards to employees who need them.
15	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.	23	Subsidize employee parking and transit equally (if employee parking is currently subsidized, offer equal subsidy for transit costs)	We plan to do this in the future.
16	Transit/pedestrian amenities at worksite, e.g., sidewalks, benches, etc.	There is a Metrobus stop 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.	24	Ozone Action Days participation (regional program to alert people to dangerous air quality days) Visit Clean Air Partners website to sign up for air alerts. http://www.cleanairpartners.net	We include information about Ozone Action Days to summer editions of our e-newsletter.