



**Committee:** Directly to Council  
**Committee Review:** At a future date  
**Staff:** Ludeen McCartney-Green, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #RightofWayPermit

AGENDA ITEM #19B  
June 29, 2021  
**Action**

## SUBJECT

Expedited Bill 13-21, Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising - Amendments

Lead Sponsor: Council President Hucker at the request of the County Executive

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to adopt Expedited Bill 13-21 by the T&E Committee.

## DESCRIPTION/ISSUE

Expedited Bill 13-21 would:

- (1) expand the authority of the Department of Permitting Services to issue permits for right-of-way occupations;
- (2) require a permittee to execute a certain agreement for private installation of non-commercial structures that are accessory to residential use in the public rights-of-way;
- (3) clarify the exemption of “franchise” requirements; and
- (4) generally amend the law regarding permits to obstruct public rights-of-way.

The T & E Committee has recommended (3-0) approval of Bill 13-21 with no amendments.

## SUMMARY OF KEY DISCUSSION POINTS

- Final action on Expedited 13-21

### This report contains:

Staff Report	Pages 1
Expedited Bill 13-21	©1
Legislative Request Report	©4
County Executive Memorandum	©5
Fiscal Impact Statement	©6
Economic Impact Statement	©8
Racial Equity and Social Justice Impact Statement	©13
Electric Vehicles Charging Guidelines	©15

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**M E M O R A N D U M**

June 24, 2021

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Expedited Bill 13-21, Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising - Amendments

PURPOSE: Final Action – Roll Call Vote Required

<p><b><u>Transportation &amp; Environment Committee Recommendation (3-0):</u></b> <b>Adopt Expedited Bill 13-21</b></p>
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Expedited Bill 13-21, Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising - Amendments, sponsored by Lead Sponsor Council President Hucker at the request of the County Executive, was introduced on March 11, 2021.<sup>1</sup> A public hearing was held on April 6, 2021.

Expedited Bill 13-21 would expand the authority of the Department of Permitting Services to issue permits for right-of-way occupations and clarify the exemption of “franchise” requirements.

**BACKGROUND**

This purpose of this bill is to expand the Department of Permitting Services (DPS) authority to approve permits for private property owners who need to install non-commercial structures that are accessory to a residential use, such as an Electric Vehicle (EV) charging device, private storm drain pipes with access to the public sewer system, roof drains, and other non-standard facilities or accessories that may encroached in the County’s rights-of-way. The permittee would be required to execute a maintenance and liability agreement to hold the County harmless for any risk, danger, injury, or damages to either private property or person. A permittee would be exempt from the current

requirement to obtain a franchise approval through the County Council. Specifically, the bill will seek to implement the following:

- (1) expand the authority of the Department of Permitting Services to issue permits for right-of-way occupations;
- (2) require a permittee to execute a certain agreement for private installation of non-commercial structures that are accessory to residential use in the public rights-of-way;
- (3) clarify the exemption of “franchise” requirements;
- (4) generally amend the law regarding permits to obstruct public rights-of-way.

## **BILL DESCRIPTION**

Under Section 49-20 of the County Code, the franchise law specifies an applicant who intends to use or occupy a County’s right-of-way with a permanent obstruction is required to apply for a franchise. The application for a franchise must be posted in the local newspaper for a certain timeframe, receive an assessment to determine whether the value of the franchise is adequate, followed by a public hearing for taxpayers or adjacent property owners to raise objections, and then finally approval by the Council. The most common applicants for a franchise are public utility and telecommunication companies.

Currently, DPS may grant a permit where an obstruction in the public right-of-way is temporary and removable, however, it lacks the appropriate authority to approve permits for property owners who may need to install a permanent private, non-commercial structure that is in the occupation of right-of-way, as an accessory for residential use. Non-commercial structures can include, EV charging device, private storm drain pipes connecting to the public system, roof drains, sump pumps within the public right-of-way, driveway and parking pavement, playgrounds, fences over storm drain easements, monumental mailboxes, non-standard driveway aprons, retaining walls and steps, and other nonstandard items approved by DPS (©5).

Bill 13-21 would codify and expand DPS’s authority to approve permits for non-commercial accessory structures that encroach on the County’s right-of-way and exempt certain infrastructure from the franchise requirement.

Further, DPS lacks sufficient mechanism to enforce private property owners who misuse the County’s right-of-way; however, through the approved permit process for non-commercial structure, under this bill, DPS would have the authority to require property owners to execute a maintenance and liability agreement. The maintenance and liability agreement will strengthen the Department’s ability to conduct its due diligence, ensure the County is held harmless, and effectively regulate a property owner’s adherence or non-compliance to the agreement.

### *Montgomery County Climate Initiative*

In 2017, the Council adopted the Emergency Climate Mobilization Resolution, which called for 80% reduction in Greenhouse Gas (GHG) emissions by 2027, and the elimination of GHG emissions – “Net Zero” – by 2035. The County initiated strategies to determine the most

effective ways to reduce GHG and transportation was cited as a main source that constituted 41% of the County's GHG emissions.<sup>2</sup> One recommendation to lower emissions was to increase the scale and rate of Electric Vehicle adoption. Over time, DPS has received an increase of private property owners who request a permit from the Department to install an EV charging device in the public right-of-way, either because the homeowner's property does not have a garage, driveway, or parking pad to allow for the installation, and the cost to erect such access becomes very astronomical and more of a deterrent. To further support the Montgomery County Climate Initiative strategy and increase County resident's access to EV charging devices, DPS in coordination with Department of Transportation (DOT), initiated the Residential Electric Charging Station Pilot Program.

### *Residential Electric Vehicles (EV) Charging Station Guidelines and Pilot Program*

DPS and DOT developed the Residential Electric Vehicles Charging Permitting Guidelines (©15) and initiated a pilot program to expand the options for home charging stations. The program allows for a resident to either create a new space on their property to accommodate EV charging or to install an EV charging station, at their expense, at the curb by their home for use while parked on the street.

The electric vehicle policy within the guidelines ensures the right-of-way will continue to serve the public and remain safe. Property owners will not have exclusive rights, privileges, or priority for parking adjacent to an EV charging station. Further, the option to encroach on the right-of-way will only be considered when there is no opportunity to install a driveway or parking pad on the property. Street parking will remain available to anyone and parking restrictions will still remain in effect.

Bill 13-21 would adopt the Residential Electric Vehicles (EV) Charging Permitting Guidelines. The guidelines provide a succinct process for DPS to streamline and review permit applications to determine whether a resident can obstruct a County right-of-way for the purpose of installing an EV charging device.

### **FISCAL AND RACIAL EQUITY & SOCIAL JUSTICE IMPACT**

The fiscal impact statement concluded that Bill 13-21 would have a minimal fiscal impact on property values for residential properties who permanently installed a new Residential Electric Vehicles (EV) Charging Station (©6). The Office of Legislative Oversight (OLO) concluded the Bill would have positive, yet small economic impact and a minimal impact on racial equity and social justice among County residents (©13).

### **SUMMARY OF PUBLIC HEARING**

There were no speakers for the public hearing held on April 11, 2021.

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<sup>2</sup> <https://www.montgomerycountymd.gov/green/Resources/Files/climate/ev-group-buy-forum-january-2021.pdf>

## SUMMARY OF T&E COMMITTEE WORKSESSION

On June 14, 2021, the T&E Committee held a worksession on Expedited Bill 13-21. In attendance participating in the worksession were Linda Kobylski and Atiq Panjshiri from the Department of Permitting Services and Maricela Cordova and Emil Wolanin from the Department of Transportation.

The Committee discussed several topics related to the bill, such as: 1) DPS Electric Vehicle Charging Station Guidelines (©15) and its implementation; 2) regulations to require homeowners to execute a maintenance and liability agreement; 3) the cost and fees related to permits for a EV Charging Station and whether DPS should initiate an appropriation request from the general fund in an effort to reduce or offset the cost to an EV owner; 4) misuse of an EV charging device used by an unauthorized user; and 4) certain homeowners with private storm drains, roof drains, or sump pumps need to install into the public sewer system because the water runoff becomes icy in winter seasons and poses a safety risk, only if permitted by DPS, this bill would allow certain homeowners the option to use the right-of-way for proper drainage.

The Committee has voted (3-0) and recommend adoption of Bill 13-21 with no amendments.

## NEXT STEPS

The next step is a roll call vote of Council regarding whether to adopt Expedited Bill 13-21 as recommended by the T&E Committee.

<u>This packet contains:</u>	<u>Circle #</u>
Expedited Bill 13-21	1
Legislative Request Report	4
County Executive Memorandum	5
Fiscal Impact Statement	6
Economic Impact Statement	10
Racial Equity and Social Justice Impact Statement	13
Residential EV Charging Permitting Guidelines	15

\\F:\Central\_Staff\LAW\BILLS\2113 Streets And Road-Permit To Obstruct Public R-O-W\Action Memo.Docx

Expedited Bill No. 13-21  
Concerning: Streets and Roads – Permit  
to Obstruct Public Rights-of-Way and  
Franchising - Amendments  
Revised: 3/11/2021 Draft No. 2  
Introduced: March 16, 2021  
Expires: September 16, 2022  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN EXPEDITED ACT** to:

- (1) expand the authority of the Department of Permitting Services to issue permits for right-of-way occupations;
- (2) require a permittee to execute a certain agreement for private installation of non-commercial structure that are accessory to residential use in the public rights of way
- (3) clarify the exemption of “franchise” requirements;
- (4) generally amend the law regarding permits to obstruct public rights-of-way.

By amending

Montgomery County Code  
Chapter 49, Streets and Roads  
Sections 49-11 and 49-20

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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 49-11 and 49-20 are amended as follows:**

2   **49-11. Permit to obstruct public rights-of-way.**

3   \*       \*       \*

4           (b)   Notwithstanding Section 49-10, and subject to subsections (c) and (d) of  
5                   this Section, the Director of Permitting Services may issue a permit to:

6                   (1)   reconstruct or repair a sidewalk, shared use path, driveway, curb,  
7                           or other structure;

8                   (2)   [install,] repair, locate, or replace underground utilities or  
9                           infrastructure under a sidewalk or shared use path;

10                  (3)   install a temporary, removable obstruction or occupation of a right-  
11                           of-way;

12                  (4)   close a curb lane, sidewalk, or shared use path in conjunction with  
13                           the construction or reconstruction of an abutting structure; [or]

14                  (5)   install permanent, nonstandard structures in the right-of-way that  
15                           were approved by the Planning Board, the City of Rockville, or the  
16                           City of Gaithersburg in a site plan as a site element of streetscape.

17                   Streetscape includes street furnishings, fixtures and elements in  
18                           connection with public use of the right-of-way but does not include

19                           enclosed structures or vaults or improvements for private use. The  
20                           permit applicant must execute a declaration of covenants that runs

21                           with the land on which the project associated with the streetscape  
22                           is being developed to perpetually maintain the permitted

23                           streetscape in a good and safe condition; return the right-of way to  
24                           its condition before the permitted streetscape was installed if the

25                           nonstandard permitted streetscape is removed; and indemnify the  
26                           County from any cost or liability associated with the construction,



27 maintenance, use or removal of the nonstandard permitted  
28 streetscape[.]; or

29 (6) install a private, non-commercial structure that is accessory to a  
30 residential use. The permittee must execute a maintenance and  
31 liability agreement that is approved by the Director of the  
32 Department of Permitting Services.

33 \* \* \*

34 **Sec. 49-20. Franchises for use of street; procedure for granting; notice and**  
35 **hearing.**

36 \* \* \*

37 (e) As used in this Chapter, “franchise” includes any franchise, lease, license,  
38 contract, or other right or permission to use or occupy a County right-of-way.  
39 However, “franchise” does not include [a temporary, removable obstruction or] an  
40 occupation of a right-of-way for which the Department of Permitting Services has  
41 issued a permit under Section 49-11.

42 (f) The Director of Permitting Services must issue a permit under this Article  
43 before a franchisee may occupy or obstruct the right-of-way.

44 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation is  
45 necessary for the immediate protection of the public interest. This Act takes effect on  
46 the date on which it becomes law





## LEGISLATIVE REQUEST REPORT

Expedited Bill 13-21

*Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising - Amendments*

**DESCRIPTION:** This Bill revises Chapter 49 to allow for the installation in the public right-of-way of non-commercial structures that are accessory to a residential use. The permittee will be required to execute a maintenance and liability agreement.

**PROBLEM:** Residents sometimes need to install non-commercial facilities that encroach upon the County's right-of-way. Under current law, those facilities would need a franchise approved by the County Council.

**OBJECTIVE:** Allow, by permit, non-commercial, accessory structures to encroach upon the public right-of-way.

**COORDINATION:** Department of Transportation and Department of Permitting Services.

**FISCAL IMPACT:** Office of Management and Budget.

**ECONOMIC  
IMPACT:** Department of Finance.

**EVALUATION:** To be requested.

**EXPERIENCE  
ELSEWHERE:** Inapplicable.

**SOURCES OF  
INFORMATION:** Maricela Cordova  
Purple Line Implementation Manager  
Department of Transportation  
240-777-7235

Linda Kobylski, Division Chief  
Department of Permitting Services  
240-777-6346

**APPLICATION  
WITHIN**

**MUNICIPALITIES:** Varies. Applicable to municipalities governed by Chapter 49.


**PENALTIES:** Inapplicable.

OFFICE OF THE COUNTY EXECUTIVE

MEMORANDUM

February 23, 2021

TO: Tom Hucker, Council President

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Amendment to County Code; Chapter 49  
Streets and Roads – Permit to Obstruct Public Rights-of-Way

I hereby request that you introduce the attached Chapter 49 Amendment. The intent of this proposed amendment is to allow for the installation in the public right-of-way of non-commercial structures that are accessory to a residential use. The permittee will be required to execute a maintenance and liability agreement.

Residents sometimes need to install non-commercial facilities that encroach upon the County's right-of-way. Under current law, those facilities would need a franchise approved by the County Council. This bill will exempt from the franchise requirement certain infrastructure, such as private storm drain pipes connecting to the public system, roof drains, sump pumps within the public right-of-way, driveway and parking pavement, playgrounds, fences over storm drain easements, monumental mail boxes, non-standard driveway aprons, retaining walls and steps, and other nonstandard items approved by the Department of Permitting Services (DPS) under a maintenance and liability agreement signed by property owners. This proposed amendment would also allow for the permanent implementation of the new Residential Electric Vehicles (EV) Charging Permitting Guidelines, which are currently being implemented under a pilot program.

This process will be streamlined by allowing, by permit, non-commercial, accessory structures to encroach upon the public right-of-way.

**Fiscal Impact Statement**  
**Bill XX Streets and Roads – Permit to Obstruct Public Rights-of-Way**

**1. Legislative Summary**

This bill allows for the installation in the public right-of-way of non-commercial structures that are accessory to a residential use. The permittee will be required to execute a maintenance and liability agreement. Residents sometimes need to install non-commercial facilities that encroach upon the County's right-of-way. Under current law, those facilities would need a franchise approved by the County Council. This process will be streamlined by allowing, by permit, non-commercial, accessory structures to encroach upon the public right-of-way.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

Not applicable

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Not applicable

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable

**5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable

**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable

**7. An estimate of the staff time needed to implement the bill.**

This bill will exempt from the franchise requirement certain infrastructure, such as private storm drain pipes connecting to the public system, roof drains, sump pumps within the public right-of-way, driveway and parking pavement, playgrounds, fences over storm drain easements, monumental mail boxes, non-standard driveway aprons, retaining walls and steps, and other nonstandard items approved by DPS under a maintenance and liability agreement signed by property owners. This proposed amendment would also

allow for the permanent implementation of the new Residential Electric Vehicles (EV) Charging Permitting Guidelines, which are currently being implemented under a pilot program.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

No additional staff required

**9. An estimate of costs when an additional appropriation is needed.**

Not applicable

**10. A description of any variable that could affect revenue and cost estimates.**

Not applicable

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

None

**12. Other fiscal impacts or comments.**

None

**13. The following contributed to and concurred with this analysis:**

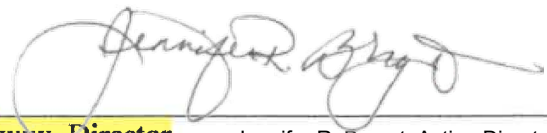
Brady Goldsmith, Office of Management of Budget

Maricela Cordova, Department of Transportation

Emil Wolanin, Department of Transportation

Atiq Panjshiri, Department of Permitting Services

Linda Kobylski, Department of Permitting Services

  
~~xxxx~~ Director ----- Jennifer R. Bryant, Acting Director  
Office of Management and Budget

1/28/21

Date

# Economic Impact Statement

## Office of Legislative Oversight

### Expedited Bill 13-21

### Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising – Amendments

#### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that by allowing the County to grant permits for installing in the public rights-of-way non-commercial structures that are accessory to a residential use, Expedited Bill 13-21 would benefit businesses and residents hired to install these structures. Overall, OLO expects that the bill would have a positive, yet small, economic impact in the County.

#### BACKGROUND

Expedited Bill 13-21 would amend County law regarding permits to obstruct public rights-of-way in the following ways: The bill would expand the authority of the Department of Permitting Services (DPS) by allowing the Director to issue a permit to “install a private, non-commercial structure that is accessory to a residential use.”<sup>1</sup> These structures would include “an Electronic Vehicle (EV) charging device, private storm drain pipes with access to the public sewer system, roof drains, and other non-standard facilities or accessories encroached in the County’s rights-of-way, as approved by DPS.”<sup>2</sup> The bill would also require the permittee to “execute a maintenance and liability agreement that is approved by the Director of [DPS].”<sup>3</sup>

#### METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

No formal methodologies were used in this analysis. For information on the bill, OLO relied primarily on:

- Interviews with residents and County staff who have been involved in the development of Expedited Bill 13-21.
- *Residential Electric Vehicles Charging Permitting Guidelines*, Montgomery County Department of Transportation and Department of Permitting Services, Revised March 2021.<sup>4</sup>
- Maricela Cordova, MCDOT, Residential Electric Vehicles (EV) Charging Permitting Guidelines, March 4, 2020, Public Meeting, Bethesda-Chevy Chase High School.

Importantly, Expedited Bill 13-21 would only be responsible for economic impacts related to the installation of Electric Vehicle (EV) charging devices and other non-commercial structures that otherwise would not have occurred in the absence of expanding DPS’s permitting authority. OLO cannot project the increase in installations that would occur if the bill is

<sup>1</sup> Montgomery County Council, Expedited Bill 13-21, Streets and Roads – Permit to Obstruct Public Rights-of-Way and Franchising – Amendments, Introduced on March 16, 2021. See bill in Introduction Staff Report, [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2704\\_1\\_14300\\_Bill\\_13-2021\\_Introduction\\_20210316.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2704_1_14300_Bill_13-2021_Introduction_20210316.pdf).

<sup>2</sup> Ludeen McCartney-Green to Montgomery County Council, Memorandum, March 11, 2021. See memo in Introduction Staff Report for Expedited Bill 13-21.

<sup>3</sup> Montgomery County Council, Expedited Bill 13-21.

<sup>4</sup> See link [https://www.montgomerycountymd.gov/DPS/Resources/Files/RCI/EV\\_Charging\\_Guidelines.pdf](https://www.montgomerycountymd.gov/DPS/Resources/Files/RCI/EV_Charging_Guidelines.pdf).

# Economic Impact Statement

## Office of Legislative Oversight

enacted. The primary challenge is that the number of residential units which are both located adjacent to the County's rights-of-way and suitable for installation of EV charging devices is unknown.

Another challenge with projecting the number of installations that would be attributed to Expedited Bill 13-21 is uncertainty around residents' willingness to incur the costs associated with complying with County law. Installing a curbside EV charging device in Berkeley, California, which ran a Curbside Residential Pilot Charging Program from 2014 to 2018,<sup>5</sup> reportedly ranged from \$5,000 to \$20,000 for the purchase and installation of the equipment.<sup>6</sup> High costs would undoubtedly discourage some residents from pursuing a residential charging option. In addition, it is OLO's understanding that Expedited Bill 13-21 is partly motivated to prevent unauthorized charging of EVs at home (i.e., running cables across County sidewalks). Such methods can be significantly cheaper than installing EV charging devices in the County's rights-of-way. Without rigorous enforcement, OLO anticipates that some residents would opt for unauthorized methods of home charging rather than comply with County law.

Despite uncertainties around the number of affected residential units and resident demand for installing structures in the County's rights-of-way, the primary assumption underlying the claims in subsequent sections is the following: **Enacting Expedited Bill 13-21 would lead to some non-negligible increase in the installation EV charging devices and other non-commercial structures in the County's rights-of-way that otherwise would not have occurred.** This assumption is based on two conditions: (a) suppressed demand for EVs due to the lack of charging infrastructure in the U.S.,<sup>7</sup> and (b) the exponential increase in demand for EVs nationwide and within the County, notwithstanding the underdeveloped charging infrastructure.<sup>8</sup>

## VARIABLES

The primary variables that would affect the economic impacts of Expedited Bill 13-21 are:

- number of EV charging devices and other structures installed per year;
- average cost per installation; and
- average increase in residential property values per installation.

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<sup>5</sup> For more information on this pilot program, see Pilot Manual: Residential Curbside Electric Vehicle (EV) Charging Pilot Program, Planning & Development Department, City of Berkeley, March 26, 2018, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Manual%20with%20attachments%2012-1-14.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Manual%20with%20attachments%2012-1-14.pdf).

<sup>6</sup> Skip Descant, "EV Infrastructure Charges into California's Public Spaces," *Government Technology*, April 14, 2020, <https://www.govtech.com/fs/EV-Infrastructure-Charges-into-Californias-Public-Spaces.html>.

<sup>7</sup> Indeed, unlocking this suppressed demand is part of the motivation behind the Biden Administration's \$2 trillion infrastructure bill, which prioritizes the development of a national EV charging network. See Michael Wayland, "Biden wants to build a national EV charging system under \$2 trillion infrastructure plan, but it won't be easy," *CNBC*, May 31, 2021, <https://www.cnn.com/2021/03/31/us-ev-charging-system-a-priority-under-bidens-2-trillion-infrastructure-plan.html>.

<sup>8</sup> Maricela Cordova, MCDOT, Residential Electric Vehicles (EV) Charging Permitting Guidelines, March 4, 2020, Public Meeting, Bethesda-Chevy Chase High School.

# Economic Impact Statement

## Office of Legislative Oversight

### IMPACTS

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

#### Businesses, Non-Profits, Other Private Organization

The economic impacts of Expedited Bill 13-21 on private organizations are conditional on the installation of non-commercial structures in the County's rights-of-way that otherwise would not have occurred in the absence of the bill. Assuming this occurs, OLO believes that the bill would have targeted, positive impacts on businesses that receive contracts to perform EV charging device and other non-commercial structure installations. These businesses would experience income gains. Because demand for EVs is likely to continue increasing in the County, the bill should have long-term, positive impacts on these businesses in the County.

Moreover, it is worth noting that local governments in the DC metropolitan region and across the country are working to expand supporting infrastructure for EVs.<sup>9</sup> By making it easier for residents to attain permits to install non-commercial structures in the County's rights-of-way, Expedited Bill 13-21 may enhance the County's perception of being flexible in dealing with changing technologies.

Other than business income, OLO does not believe that the bill would significantly impact private organizations in terms of the Council's other priority indicators.<sup>10</sup>

#### Residents

OLO believes that Expedited Bill 13-21 would have targeted, positive impacts on certain residents in the form of income gains. These residents include the owners of businesses, self-employed individuals, and wage workers that receive contracts to install non-commercial structures.

The bill would also impact residents who have these structures installed in the County's rights-of-way adjacent to their homes. While the bill would require residents to purchase and install the structures at their own expense,<sup>11</sup> they may also experience savings (e.g., reduced EV charging expenses). Moreover, the installation of EV charging devices (and perhaps other structures) may increase property values of adjacent homes. Indeed, a study by Realtor.com found that proximity to EV charging stations is associated with higher median listing prices.<sup>12</sup>

Finally, it is worth noting that by expanding the supporting infrastructure of EVs, the bill could help facilitate the electrification of transportation in the County, a key component of the County's goal of achieving zero greenhouse gas

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<sup>9</sup> Descant, "EV Infrastructure Charges into California's Public Spaces."

<sup>10</sup> For the Council's priority indicators, see Montgomery County Code, Sec. 2-81B. Economic Impact Statements, [https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md/0-0-0-80894](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894).

<sup>11</sup> Residential Electric Vehicles Charging Permitting Guidelines, Montgomery County Department of Transportation and Department of Permitting Services, Revised March 2021.

<sup>12</sup> Brenda Richardson, "It Pays To Be Green: Homes Near Electric-Vehicle Charging Stations Fetch Top Dollar," *Forbes*, April 21, 2019, <https://www.forbes.com/sites/brendarichardson/2019/04/21/it-pays-to-be-green-homes-near-electric-vehicle-charging-stations-fetch-top-dollar/?sh=729d0829418b>. Residential solar panels are also associated with higher home values. See Valentina Sanchez, "Solar power can boost your home's value – especially in these 10 states," CNBC, October 5, 2019, [https://www.cnbc.com/2019/10/05/solar-power-can-boost-a-homes-value-in-these-10-states-themost.html#:~:text=Installing%20solar%20panels%20in%20a, valued%20home%20in%20the%20U.S.](https://www.cnbc.com/2019/10/05/solar-power-can-boost-a-homes-value-in-these-10-states-themost.html#:~:text=Installing%20solar%20panels%20in%20a, valued%20home%20in%20the%20U.S.;); and Sarah Mikhitarian, "Homes With Solar Panels Sell for 4.1% More," *Zillow*, April 16, 2019, <https://www.zillow.com/research/solar-panels-house-sell-more-23798/>.

# Economic Impact Statement

## Office of Legislative Oversight

emissions by 2035.<sup>13</sup> In doing so, Expedited Bill 13-21 may help reduce the long-term, “social cost of carbon,” defined in the County Code as “an estimate of the economic damages or damages avoided associated with the increase or reduction of one metric ton of carbon dioxide emissions.”<sup>14</sup>

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## DISCUSSION ITEMS

Not applicable

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## WORKS CITED

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Wayland, Michael. “Biden wants to build a national EV charging system under \$2 trillion infrastructure plan, but it won’t be easy.” *CNBC*. May 31, 2021.

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<sup>13</sup> Press Release, “Montgomery County’s New Electric Vehicle Charging Guidelines Make It Easier for Residents to Charge at Home,” May 19, 2020, [https://www2.montgomerycountymd.gov/mcgportalapps/Press\\_Detail.aspx?Item\\_ID=25338](https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=25338).

<sup>14</sup> Sec. 18A-16A. Social cost of carbon assessment, [https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md/0-0-0-91142](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-91142).



# Economic Impact Statement

Office of Legislative Oversight

## CAVEATS

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

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## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **EXPEDITED      STREETS AND ROADS-PERMIT TO OBSTRUCT PUBLIC BILL 13-21:    RIGHTS-OF-WAY AND FRANCHISING- AMENDMENTS**

### **SUMMARY**

The Office of Legislative Oversight (OLO) expects Bill 13-21 to have a minimal impact on racial equity and social justice in the County.

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### **BACKGROUND**

The County Council introduced Expedited Bill 13-21 on March 16, 2021. The bill aims to streamline certain permitting services in the County for residential uses. If enacted, the bill would:

- Expand the authority of the Department of Permitting Services to issue permits for right-of-way occupations;
- Require a permittee to execute a certain agreement for private installation of non-commercial structure that are accessory to residential use in the public rights of way;
- Clarify the exemption of “franchise” requirements; and
- Generally amend the law regarding permits to obstruct public right-of-way.<sup>1</sup>

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### **ANTICIPATED RESJ IMPACTS**

Since Expedited Bill 13-21 aims to enhance the current authority of the Department of Permitting Services for residential uses and not alter its overall goals, OLO anticipates that the expedited bill would have a minimal impact on racial equity and social justice in the County. No changes in RESJ for residents in the County are anticipated under Expedited Bill 13-21.

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### **CAVEATS**

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

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### **CONTRIBUTIONS**

OLO staffer Dr. Theo Holt, Performance Management and Data Analyst, drafted this racial equity and social justice impact statement.

# RESJ Impact Statement

## Expedited Bill 13-21

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<sup>1</sup> Montgomery County Council, Bill 13-21, Streets and Roads-Permit to Obstruct Public Rights-of-Way and Franchising-Amendments, Introduced on March 16, 2021, Montgomery County, Maryland.



# **Residential Electric Vehicles (EV) Charging Permitting Guidelines**

**Montgomery County  
Department of Transportation  
Department of Permitting Services**



**Revised March 2021**

## **Montgomery County Department of Permitting Services**

### **Residential Electrical Vehicle (EV) Policy**

#### **Overview**

Charging an electric vehicle at home is the most common, convenient, and economical place to refuel. This policy will expand options for home charging; allowing residents to either create new space on their property to accommodate EV charging or to install an EV charging station at the curb by their home for use while parked on the street. This policy must also ensure the public right of way continues to serve the public.

Applicants will purchase and install charging stations at their own expense, either on their property or at the curb, depending on the site. The installation of curbside charging stations will only be considered when on-site opportunities do not exist and cannot be created.

An EV charging station installed through this guideline will not create any privilege or priority for use of the adjacent curbside parking. Street parking will remain available to anyone. Any parking restrictions on your street, such as Residential Preferential Parking, will remain in effect.

This program is available to those who reside in single family dwellings or duplexes and the permit will only be issued to the property owner.

#### **Step 1: Initial Inquiry (Work within the Public Right of Way)**

If your property lacks on site installation options, you must first submit a letter of interest that includes a plan view drawing or photo showing the proposed location with details of the proposed charging station location. This will allow the County to make an initial determination of whether you are able to charge on your own property or are a candidate for curbside charging.

#### **Step 2: Initial Determination**

DPS will review your request and issue an initial determination with guidance for next steps. In making this determination, staff will look at specific characteristics of your property and advise you of one of the following options:

- a. Deny your request as there is an existing space, with access to your private property to install an EV charging station on your own property
- b. Construct a new curb cut (driveway or parking pad) to install an EV charging station and parking space on your property
- c. Install a curbside EV charging station at an appropriate location in front your property within the public right of way
- d. Inform you that your property is not a candidate for an EV Charging Station in the right of way due to space limitations or safety concerns

### Step 3: Permitting Requirements

#### Option A – Existing Space with Access to Your Private Property

If you have an existing driveway, garage, or parking pad with space for charging a vehicle; Montgomery County will not consider installation in the public right of way. Installation on private property, only requires an electrical permit. The electrical permit must be obtained by a licensed electrician.



#### Option B – New Curb Cut (Driveway or Parking Pad Installation)

If the DPS review finds there is adequate space on your property for a parking pad, the EV charging station will not be allowed in the public right of way. Prior to permit issuance, DPS will require a Zoning review to ensure your proposed parking pad will not violate any codes related to front lot parking coverage. A permit is not required for the parking pad itself; however, you will need a right of way permit for access to the property, i.e. a driveway apron. You will also need an electrical permit for the charging station.

#### Design and Placement

Location of the curb cut and driveway apron will be reviewed by DPS and staff may specify a location for your curb cut. In general, curb cuts should be placed to minimize the reduction of street parking and vegetation. Proper distances should be maintained between the curb cut and features in the public right-of-way including street trees, utility poles and signs. Work conducted in the public right-of-way must adhere with the materials, designs, and construction methods detailed by the County (available at Curbs, Gutters, Sidewalks, and Driveway Approaches Constructed under County Permits). All the elements mentioned will be reviewed when the permit application is submitted.

## Permit Application Submittals

**Right of Way Permit (ROW)** application packages must include, at a minimum:

1. ROW Permit Application and Filing Fee
2. Installation drawing. Important elements include:
  - a. Dimensioned drawings with property lines, lot dimensions, building footprints, walkways, existing above ground and underground utility infrastructure and underground laterals, sidewalks, curbs, and features in the planting strip
  - b. The proposed location of the curb cut, driveway approach, vehicle-related paving, and landscaping screening strip should be dimensioned and called out with shading, hatching, or other methods
  - c. Photographs of existing conditions are encouraged

### **Electrical Permit:**

Electrical Permit Application and Filing Fee, the electrical permit must be obtained by a licensed electrician.

## **OPTION C – Within the Public Right of Way**

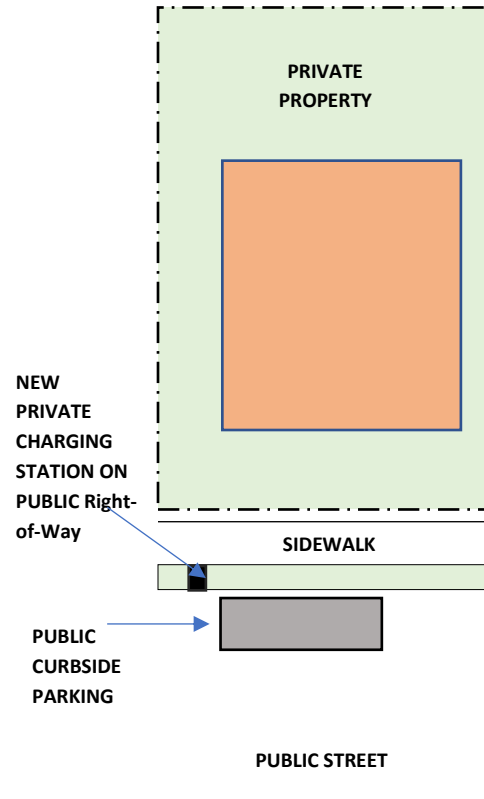
DPS may find that no space exists on your property to construct an off-street parking space for EV charging. If DPS determines your property qualifies for installation in the right of way, a public right of way permit and electrical permit are required. The electrical permit must be obtained by a licensed electrician. DPS will determine the exact location of the proposed EV charging station. This option will only be considered when there is no opportunity to install a driveway or parking pad on your property.

The EV charging station will be connected to your home electrical service, as if the charging station was located on your private property. Conduit will be run from your electrical panel to the EV charging station located in the planting strip adjacent to the curb.

The conduit must be underground in the public right-of-way, including under the sidewalk, and it is likely that trenching will also be required on your private property. Property owners are required to work with a licensed electrical contractor to understand all installation options.

Curbside EV charging station installations may be either Level 1 (120 volt) or Level 2 (240 volt), but must meet all the requirements of the Electrical Code; outdoor installations of electric vehicle supply equipment (EV charging stations) must be permanently connected and fastened in place with no exposed live parts. Charging stations must be listed by an approved product listing agency, rated for

outdoor use and installed in accordance with the manufacturer's specifications and the County's right of way permit conditions.





## Design and Placement Option C

- The space must comply with existing posted parking restrictions
- Avoid conflicts with other utility infrastructure (existing utilities and laterals must be shown on site diagram for permit)
- Installation shall be at least 6 feet from fire hydrants
- Avoid interference with vehicular sight lines at street corners or driveways
- Minimize the removal of vegetation
- Maximize the number of parking spaces the EV charging station could serve
- EV charging station cords must not cross over sidewalks, walkways, or driveways, rather, station cords shall be automatically retractable
- Installation shall be at least 18 inches from the back of the curb (in the planting strip if one is present)
- Position the EV charging station such that the stored connector is at a height of 24 inches to 48 inches above the parking surface (Electrical Code, Article 625.30(B))
- Install an enclosure or cage around the EV charging station to protect and control its use; if the charging station is not fully enclosed, the charging station cord and connector must be secured when not in use
- Orient the EV charging station such that an enclosure door will not open past the curb face or over the sidewalk
- Minimize the size of any enclosure around a charging station or cord. Colors and materials for any enclosure should minimize their visibility and integrate with the design of surrounding buildings and landscaping
- No advertising is permitted on the charging station or associated enclosure

## Permit Application Submittals

**Right of Way Permit (ROW)** application packages must include, at a minimum:

1. ROW Permit Application and Filing Fee
2. Plan view drawing or photo showing the proposed location for the charging station
3. Declaration of Covenants for Maintenance and Liability for Occupation of the Right of Way

**Electrical Permit** application submittals include:

1. Electrical Permit Application and Filing Fee
2. Plan view drawing or photo showing the proposed EV charging location, conduit routing and location of the electrical meter
3. Single line electrical plan/diagram from the meter to the EV charging station (may be provided by licensed electrician)
4. Manufacturer's specifications and installation guidelines for the EV charging station including the approved product listing agency (i.e. UL) number
5. Existing panel rating, proposed charging load & calculations for systems over 220 volts and/or 40amp

## **Step 4: Installation**

Once you have obtained your permits, for either an on-site or curbside EV charging station, you are ready to install the station and any corresponding features. County Building and Safety staff will inspect the EV charging station connection at the completion of the project. In addition, a right of way inspector will inspect the construction in the public right-of-way.

Once your inspections are final, you are ready to charge!

## **Step 5: Operation**

It is your responsibility to operate your EV charging station in keeping with the conditions of its permits. For curbside locations, maintaining a safe EV charging station is particularly critical. It must be operated in a way that minimizes potential trip hazards by including a retractable cord and connector when the charging station is not in use. It must be controlled either by a safety enclosure around the charging station or cord that is locked while the station is idle. The station must not be charged when not in use.

Failure to operate the charging station safely could result in revocation of the right of way permit. If the right of way permit is revoked, it will be the property owner's responsibility to remove the EV charging station and its associated equipment, conduit, and wiring from the public right-of-way and restore the right-of-way to its original condition.

## **Applicant Responsibilities**

DPS recommends that as the property owner you share information about your project with neighbors before submitting your request. This will provide them an opportunity to ask questions and understand the process.

Please understand your responsibilities and limitations before talking to your neighbors. The cost of purchasing, installing, using, and maintaining a curbside EV charging station shall be paid by the homeowner (or in combination with a tenant, if applicable).

It is the property owner's responsibility to maintain the charging station, and any associated safety enclosure and ensure it is in a good and safe operating condition.

The County reserves the right to revoke the public right of way permit in cases where there are safety concerns related to the EV charging station installation or when on-going parking issues adjacent to the EV charging station result in enforcement calls to the County.

The parking space adjacent to a curbside EV charging station is available for anyone's use. Any parking restrictions on your street, such as Residential Preferential Parking will remain in effect. Property owners will not have exclusive rights, privileges, or priority for parking adjacent to an EV charging station. If you know it is difficult to park adjacent to your home or you foresee issues that would limit your access to a curbside EV charging station on a regular basis, please consider whether it makes sense for you to participate in this process.

# Residential Curbside EV Charging Policy Objectives:

SAFE home Charging – Montgomery County’s commitment to Vision Zero



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Related Sources: City of Berkeley, Pilot Manual: Residential Curbside Electrical Vehicle (EV) Charging Pilot Program; March 26, 2018

Responsible Offices and Collaborators: Maricela Cordova, MCDOT Program Implementation Manager; Michael Paylor, MCDOT Traffic Division Chief; Linda Kobylski, MCDPS Division Chief; Atiq Panjshiri, MCDPS Manager, Right of Way Plan Review