

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  
Enacted: June 29, 2021  
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 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>
[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 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 **49-20. Franchises for use of street; procedure for granting; notice and hearing.**

35 \* \* \*

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

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

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

*Approved:*



7/1/2021

---

Tom Hucker, President, County Council

Date

*Approved:*

---

Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

---

Selena Mendy Singleton, Esq., Clerk of the Council

Date