Expedited Bill No. 13-21

Concerning: <u>Streets and Roads – Permit</u> 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: July 12, 2021
Effective: July 12, 2021
Sunset Date: None
Ch. 17 , Laws of Mont. Co. 2021

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 noncommercial 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

Boldface *Heading or defined term.*

<u>Underlining</u>
Single boldface brackets
Added to existing law by original bill.
Deleted from existing law by original bill.

Double underlining Added by amendment.

[[Double boldface brackets]] Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 49-11 and 49-20 are amended as follows:

49-11.	Permit	to	obstruct	nublic	rights-0	f-wav.
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3 * * *

- (b) Notwithstanding Section 49-10, and subject to subsections (c) and (d) of this Section, the Director of Permitting Services may issue a permit to:
 - (1) reconstruct or repair a sidewalk, shared use path, driveway, curb, or other structure;
 - (2) [install,] repair, locate, or replace underground utilities or infrastructure under a sidewalk or shared use path;
 - install a <u>temporary</u>, removable obstruction or occupation of a rightof-way;
 - (4) close a curb lane, sidewalk, or shared use path in conjunction with the construction or reconstruction of an abutting structure; [or]
 - (5) install permanent, nonstandard structures in the right-of-way that were approved by the Planning Board, the City of Rockville, or the City of Gaithersburg in a site plan as a site element of streetscape. Streetscape includes street furnishings, fixtures and elements in connection with public use of the right-of-way but does not include enclosed structures or vaults or improvements for private use. The permit applicant must execute a declaration of covenants that runs with the land on which the project associated with the streetscape is being developed to perpetually maintain the permitted streetscape in a good and safe condition; return the right-of way to its condition before the permitted streetscape was installed if the nonstandard permitted streetscape is removed; and indemnify the County from any cost or liability associated with the construction,

27	maintenance, use or removal of the nonstandard permitted						
28	streetscape[.]; or						
29	(6) <u>install</u> a private, <u>non-commercial</u> 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:

For Hele _	7/1/2021
Tom Hucker, President, County Council	Date
Approved:	
Man Elf	7/12/21
Marc Elrich, County Executive	Date
This is a correct copy of Council action.	
Smsinklety_	7/12/2021
Selena Mendy Singleton, Esq., Clerk of the Council	Date