

Expedited Bill No. 4-08
Concerning: Reorganization - Executive
Branch
Revised: 4-15-08 Draft No. 3
Introduced: March 4, 2008
Enacted: April 15, 2008
Executive: April 22, 2008
Effective: July 1, 2008
Sunset Date: None
Ch. 5, Laws of Mont. Co. 2008

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) abolish the Department of Public Works and Transportation and re-assign its functions;
- (2) create a Department of Transportation and assign its functions;
- (3) create a Department of General Services and assign its functions;
- (4) assign certain solid waste functions to the Department of Environmental Protection;
- (5) create an Office of Internal Audit in the Office of the County Executive, and assign certain functions to the Office;
- (6) abolish the Office of Procurement as a principal Office of the Executive Branch;
- (7) abolish the Department of Homeland Security and re-assign certain of its functions;
- (8) create an Office of Emergency Management and Homeland Security, and assign it certain functions;
- (9) clarify the authority of officers and employees to delegate functions to another, and generally provide for delegation of authority;
- (10) make technical and stylistic changes; and
- (11) generally amend the law regarding transportation, public works, procurement, property management, and related functions.

By amending

Montgomery County Code
CHAPTER 1A STRUCTURE OF COUNTY GOVERNMENT
Sections 1A-201, 1A-203
CHAPTER 2 ADMINISTRATION
Sections 2-29, 2-42B, 2-55, 2-56, 2-57, 2-58D, 2-58E, 2-64N, 2-64O
CHAPTER 4 AMUSEMENTS
Section 4-33
CHAPTER 5 ANIMAL CONTROL
Section 5-101
CHAPTER 7 BICYCLES

	Section 7-1	
CHAPTER 8	BUILDINGS	
	Sections 8-14A, 8-26, 8-32, 8-37	
CHAPTER 10B	COMMON OWNERSHIP COMMUNITIES	
	Section 10B-3	
CHAPTER 11B	CONTRACTS AND PROCUREMENT	
	Sections 11B-1, 11B-56, 11B-65	
CHAPTER 18	ELM DISEASE	
	Section 18-1	
CHAPTER 20	FINANCE	
	Section 20-38	
CHAPTER 21	FIRE AND RESCUE SERVICES	
	Section 21-12	
CHAPTER 22A	FOREST CONSERVATION - TREES	
	Sections 22A-26, 22A-31	
CHAPTER 27	HUMAN RIGHTS AND CIVIL LIBERTIES	
	Section 27-51	
CHAPTER 31	MOTOR VEHICLES AND TRAFFIC	
	Sections 31-29, 31-51, 31-52, 31-54, 31-57, 31-69	
CHAPTER 38	QUARRIES	
	Section 38-16	
CHAPTER 42A	RIDESHARING AND TRANSPORTATION MANAGEMENT	
	Sections 42A-9A, 42A-21	
CHAPTER 47	VENDORS	
	Section 47-2	
CHAPTER 48	SOLID WASTES	
	Sections 48-1, 48-3	
CHAPTER 49	STREETS AND ROADS	
	Sections 49-2, 49-3, 49-9, 49-11, 49-26, 49-28, 49-30, 49-31, 49-32, 49-33, 49-40, 49-62, 49-65, 49-67, 49-68, 49-70, 49-72, 49-73, 49-74, 49-81	
CHAPTER 52	TAXATION	
	Sections 52-48, 52-55	
CHAPTER 53	TAXICABS AND LIMOUSINES	
	Section 53-101	
CHAPTER 60	SILVER SPRING, BETHESDA, WHEATON AND MONTGOMERY HILLS PARKING LOT DISTRICTS	
	Sections 60-12, 60-14, 60-16	

By adding

CHAPTER 1A	STRUCTURE OF COUNTY GOVERNMENT
	Section 1A-109
CHAPTER 2	ADMINISTRATION
	Section <u>2-25A</u> , 2-30[[, 2-40]]

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 1A-201, 1A-203, 2-29, 2-42B, 2-55, 2-56, 2-57, 2-58D, 2-
2 58E, 2-64N, 2-60O, 4-33, 5-101, 7-1, 8-14A, 8-26, 8-32, 8-37, 10B-3, 11B-1, 11B-
3 56, 11B-65, 18-1, 20-38, 21-12, 22A-26, 22A-31, 27-51, 31-29, 31-51, 31-52, 31-54,
4 31-57, 31-69, 42A-9A, 42A-21, 47-2, 48-1, 48-3, 49-2, 49-3, 49-9, 49-11, 49-26, 49-
5 28, 49-30, 49-31, 49-32, 49-33, 49-40, 49-62, 49-65, 49-67, 49-68, 49-70, 49-72, 49-
6 73, 49-74, 49-81, 52-48, 52-55, 53-101, 60-12, 60-14, and 60-16 are amended, and
7 Sections 1A-109, 2-25A, and 2-30[[, and 2-40]] are added as follows:

8 **1A-109. Delegation of Authority; Sub-delegation.**

- 9 (a) An officer or employee may delegate authority to perform a function to
10 a designated officer or employee or the person who holds a specific
11 position if:
- 12 (1) the officer or employee has been vested with authority to perform
13 the function; and
- 14 (2) another law does not prohibit delegation of the function.
- 15 (b) The officer or employee delegating authority to perform a function may
16 impose limits, terms, and conditions on the delegation of authority.
- 17 (c) The officer or employee delegating authority remains responsible for
18 the performance of the delegated function.
- 19 (d) A delegation of authority does not divest the officer or employee who
20 delegates authority of the authority to perform the function.
- 21 (e) The officer or employee who delegates authority to perform a function
22 may revoke the delegation at any time. Authority to perform a
23 delegated authority remains valid until revoked.
- 24 (f) A delegation of authority to perform a function must be in writing.
- 25 (g) The official or employee delegating authority to perform a function and
26 the officer or employee who has been designated to perform a delegated
27 function should retain a copy of the delegation.

28 (h) An officer or employee who has been designated to perform a delegated
29 function may delegate authority to perform the function to an officer or
30 employee or a person who holds a specific position unless the
31 delegation of authority to perform the function under which the official
32 or employee is acting prohibits sub-delegation.

33 (i) This section does not apply to members of any board, committee, or
34 commission.

35 (j) Section 1A-105 exclusively governs the appointment of an acting:

- 36 (1) County Executive;
- 37 (2) Chief Administrative Officer;
- 38 (3) head of a department or principal office;
- 39 (4) holder of any other position in the Executive Branch designated
40 by law as a non-merit position; and
- 41 (5) Council Staff Director.

42 **1A-201. Establishing departments and principal offices.**

43 (a) *Executive Branch.*

44 (1) These are the departments and principal offices of the Executive
45 Branch.

46 * * *

47 Fire and Rescue [Services] Service [Section 2-39A]

48 General Services [Section 2-30]

49 Health and Human Services [Section 2-42A]

50 [Homeland Security [Section 2-64O]]

51 * * *

52 [Procurement [Section 2-64N]]

53 Public Information

54 Public Libraries [Section 2-45 et seq.]

55 [Public Works and Transportation [Section 2-55 et seq.]]

56 Recreation [Section 2-58]

57 Technology Services [Section 2-58D]

58 Transportation [Section 2-55 et seq.]

59 (2) The County Executive [determines] must determine whether an
60 entity is a department or a principal office.

61 [a.] (A) Entities that directly serve the public are
62 departments.

63 [b.] (B) Entities that provide internal support to other parts
64 of County government are principal offices.

65 * * *

66 **1A-203. Establishing other offices.**

67 (a) *Executive Branch.* These are the offices of the Executive Branch that
68 are not part of a department or principal office:

69 Office of the Commission for Women [section 27-28 et seq.]

70 Office of Community Use of Public Facilities [section 44-4]

71 Office of Emergency Management and Homeland Security [section 2-
72 640]

73 Office of Human Rights [section 27-4]

74 [[Office of Internal Audit [section 2-40]]]

75 * * *

76 **2-25A. Office of Internal Audit — Functions.**

77 The Office of Internal Audit is part of the Office of the County Executive. The
78 Office of Internal Audit must conduct its work in accordance with professional
79 standards relevant to internal audit. The Office must:

80 (a) identify areas of risk in accountability systems;

- 81 (b) conduct fiscal, contract, performance, and information system audits,
 82 and attestation engagements;
- 83 (c) undertake investigative audits and audits required by law;
- 84 (d) provide advice to County departments and offices on internal control
 85 issues;
- 86 (e) communicate actions necessary to enhance accountability; and
- 87 (f) conduct other investigations and audits as directed by the Chief
 88 Administrative Officer.

89 **2-26. Non-merit positions.**

90 The following positions in the Office of the County Executive are non-merit
 91 positions:

- 92 (a) 5 Directors of the Regional Services Centers;
- 93 (b) Director, Office of Community Partnerships;
- 94 (c) Director, Criminal Justice Coordinating Commission; ~~[[and]]~~
- 95 (d) 4 Assistant Chief Administrative Officers; and
- 96 (e) Special Projects Manager.

97 **2-29. Functions.**

98 The Department of Environmental Protection [has the following functions and
 99 responsibilities] must:

- 100 (a) [Protecting, preserving and enhancing] protect, preserve, and enhance
 101 the environmental resources of the County, including environmental
 102 planning, design, and development of disposal sites and facilities for
 103 public sewerage[.];
- 104 (b) [Developing] develop programs and [implementing] administer laws
 105 and regulations:
- 106 (1) to promote energy conservation; and
- 107 (2) to prevent or control air, water, and land pollution[.];

- 108 (c) [Developing] develop programs and [implementing] administer laws
 109 and regulations necessary to protect the public health and environmental
 110 quality[.];
- 111 (d) plan, design, develop, and manage solid waste facilities and programs,
 112 including collection, disposal, recycling, and waste reduction programs,
 113 and administer related licensing and regulatory programs and activities;
 114 and
- 115 (e) [Performing] perform other environmental protection functions as
 116 directed by the County Executive.

117 **DIVISION 5. [Reserved] DEPARTMENT OF GENERAL SERVICES.**

118 **[2-30 – 2-39 Reserved.] 2-30. Department of General Services – Functions.**

119 The Department of General Services must:

- 120 (a) administer, through the Office of Procurement, the procurement system
 121 under Chapter 11B;
- 122 (b) acquire and dispose of real property, except real property used (or
 123 intended to be used) for right-of-way governed under Chapter 49,
 124 including roads, streets, highways, bridges, culverts, storm drainage
 125 systems, pedestrian and bicycle pathways and walkway systems;
- 126 (c) design and build County buildings, including public parking facilities
 127 under Chapter 60;
- 128 (d) maintain County vehicles, including heavy and light equipment and
 129 transit equipment;
- 130 (e) remodel and renovate County buildings, except public parking facilities
 131 under Chapter 60, which remain open during the remodeling or
 132 renovation;
- 133 (f) repair and maintain County buildings, except public parking facilities
 134 under Chapter 60;

- 135 (g) manage County property and identify and acquire real property needed
 136 for the operation of County government;
 137 (h) plan and implement the use of space in County buildings; and
 138 (i) operate mail, printing, duplication, and archiving services.

139 **2-31 – 2-39 Reserved.**

140 DIVISION 6. [RESERVED] [[OFFICE OF INTERNAL AUDIT]] Reserved.

141 **[[2-40. Office of Internal Audit — Functions.**

142 The Office of Internal Audit must conduct its work in accordance with
 143 professional standards relevant to internal audit. The Office must:

- 144 (a) identify areas of risk in accountability systems;
 145 (b) conduct fiscal, contract, performance, and information system audits,
 146 and attestation engagements;
 147 (c) undertake investigative audits and audits required by law;
 148 (d) provide advice to departments on internal control issues;
 149 (e) communicate actions necessary for enhancing accountability; and
 150 (f) conduct other investigations and audits as directed by the Chief
 151 Administrative Officer.]]

152 **2-42B. Functions; Advisory Committee.**

153 * * *

154 (b) *Advisory Committee.*

- 155 (1) The County Executive must appoint, subject to confirmation by
 156 the Council, an Advisory Committee for the Department. The
 157 Committee consists of 11 voting members and 6 ex-officio, non-
 158 voting members. Each voting member must be appointed for a 3-
 159 year term and serves until a successor is confirmed. The
 160 Executive must from time to time designate one voting member
 161 as chair and one as vice-chair.

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- (3) The ex-officio, non-voting members must be nominated respectively by the Director of Environmental Protection, the Director of Housing and Community Affairs, the Director of [Public Works and] Transportation, the Fire [Administrator] Chief, the Planning Board, and the Washington Suburban Sanitary Commission.

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DIVISION 10. DEPARTMENT OF [PUBLIC WORKS AND] TRANSPORTATION.

2-55. Functions.

The Department of [Public Works and] Transportation [has the following functions and responsibilities] must:

- (a) furnish information [to the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission] and make recommendations to the Planning Board regarding the feasibility of implementing transportation aspects of master plans [prepared by the Planning Board];
- (b) coordinate and cooperate with other bodies and agencies [in the field of] regarding transportation;
- (c) develop [plans for implementing] programs to implement transportation [aspects] elements of the [adopted] County general plan [for the County] and [adopted] area master plans [for various areas of the County];
- (d) control, supervise, engineer, design, construct, operate, and maintain roads, streets, highways, bridges, culverts, storm drainage systems, pedestrian and bicycle pathways and [walkway systems] walkways, and

- 189 related facilities benefiting the County, including services relating to
 190 street cleaning, trees, plantings, and leaf collection;
- 191 (e) perform all public transit engineering and operational functions,
 192 including:
- 193 (1) mass transit;
 - 194 (2) bus service;
 - 195 (3) taxicabs;
 - 196 (4) commuter rail service;
 - 197 (5) limousine service;
 - 198 (6) airparks, landing fields, and related functions; and
 - 199 (7) transportation demand management programs;
- 200 (f) review and approve transportation elements of development plans,
 201 including storm drainage and paving plans; grade establishment plans;
 202 record plats; utility plans; pre-preliminary, preliminary and site plans;
 203 and construction permits for any work in public space;
- 204 (g) acquire and dispose of [land] real property used (or intended to be used)
 205 for roads, streets, highways, bridges, culverts, storm drainage systems,
 206 and related facilities; and
- 207 (h) operate[, design, build,] and maintain public parking facilities under
 208 Chapter 60; [, and] enforce parking regulations; manage the parking
 209 enterprise fund under Chapter 60, and remodel, restore, and renovate
 210 public parking facilities under Chapter 60 that will remain open during
 211 the work.
- 212 [(i) maintain and operate transportation equipment and related equipment as
 213 assigned;

- 214 (j) plan, design, develop, and manage solid waste facilities and programs,
 215 including collection, disposal, recycling, and waste reduction programs,
 216 and administer related licensing and regulatory programs and activities;
- 217 (k) plan, design, and supervise the construction, renovation, and
 218 reconstruction of County buildings;
- 219 (l) repair, maintain, remodel, and renovate County buildings;
- 220 (m) manage County property;
- 221 (n) plan and implement the use of space in County buildings;
- 222 (o) operate mail, printing, and duplication services; and
- 223 (p) perform other functions that the County Executive directs the
 224 Department to perform.]

225 **2-56. Non-merit ~~[[positions]]~~ position.**

226 ~~[[a)]~~ The position of Deputy Director of the Department of [Public Works
 227 and] Transportation is a non-merit position.

228 ~~[[* * *]]~~

229 ~~[[b)]~~ The position of Deputy Director for Special Projects is a non-merit
 230 position. The Deputy Director for Special Projects must coordinate and
 231 manage the County's Go Montgomery! policy and budgetary initiative,
 232 and must report each calendar quarter to the Council on this initiative.
 233 The Deputy Director for Special Projects must also coordinate and
 234 manage other high-priority transportation initiatives, as directed by the
 235 Department Director.]]

236 **2-57. Bus Advertising.**

237 (a) The Chief Administrative Officer must issue a request for proposals for
 238 a contractor to sell, affix, maintain, and replace exterior and interior
 239 advertisements on and in public transit buses owned or operated by the
 240 Department of [Public Works and] Transportation.

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242 **DIVISION 11D. DEPARTMENT OF TECHNOLOGY SERVICES.**243 **2-58D. Functions.**

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* * *

245 (d) *Information Technology Policy Advisory Committee.*246 (1) The Information Technology Policy Advisory Committee
247 includes:

248 (A) the Director of Finance;

249 (B) the Director of the Office of Management and Budget;

250 (C) the Director of [the Office of Procurement] General
251 Services;

252 (D) the Director of the Office of Human Resources;

253 (E) the County Attorney;

254 (F) [The] the Chief of Police;255 (G) the [Director of Fire/Rescue Services] Fire Chief;

256 (H) the Director of [Public Works, and] Transportation;

257 (I) the Director of Health and Human Services; and

258 (J) any other head of a County agency, department, or office
259 listed in Executive regulations approved under method 2.

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261 **2-58E. Transmission facility coordination.**

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* * *

263 (d) (1) The Director must convene a Transmission Facility Coordinating
264 Group and select a chair from among its members. The Group
265 consists of the Director's designee or contractor and a designee
266 of:

- 267 (A) the [Maryland-National Capital Park and] Planning
 268 [Commission] Board;
- 269 (B) the Office of Management and Budget;
- 270 (C) the cable television administrator in the Department of
 271 Technology Services;
- 272 (D) the Department of [Public Works and] Transportation;
- 273 (E) the Department of Permitting Services; and
- 274 (F) any other County, bi-county, or municipal department or
 275 agency which the Director invites to send a designee.

276 * * *

277 **DIVISION 20. OFFICE OF PROCUREMENT.**

278 **2-64N. Functions.**

279 The Office of Procurement is part of the Department of General Services. The
 280 Office of Procurement [has the following functions] must:

- 281 (a) [Administration of] administer the centralized purchasing system [in
 282 accordance with charter section] required by Charter Section 313;
- 283 (b) [Procurement of] procure all goods and services in accordance with
 284 Chapter 11B and other applicable law; and
- 285 (c) [Performance of] perform any other procurement [and] or related
 286 [functions as may be] function assigned by the Chief Administrative
 287 Officer.

288 **DIVISION 21. [DEPARTMENT OF] OFFICE OF EMERGENCY**
 289 **MANAGEMENT AND HOMELAND SECURITY.**

290 **2-64O. Functions and organization.**

291 The [Department of] Office of Emergency Management and Homeland
 292 Security [is responsible for planning, managing] must plan, manage, and [integrating]

293 integrate the County's emergency management and homeland security programs.

294 The [Department has the following functions] Office must:

- 295 (a) undertake emergency management and disaster preparedness planning,
296 and coordinate response and recovery operations to a disaster[.];
- 297 (b) coordinate homeland security intelligence programs in conjunction with
298 the [Montgomery County] Police, Sheriff, and other local, state, and
299 federal law enforcement agencies and disease surveillance systems of
300 public health[.];
- 301 (c) manage the interdepartmental governance of the Public Safety
302 Communications Center (PSCC) and the Alternate Public Safety
303 Communications Center (APSCC)[, and coordinate the interoperability
304 of the PSCC and the APSCC with state, regional, and federal agencies.];
- 305 (d) [Develop and integrate] facilitate the integration of policies and
306 procedures on homeland security, emergency management, and
307 [emergency] preparedness with the [Montgomery County] Fire and
308 Rescue Service; [the Department of] Police[.]; Health and Human
309 Services; [and Public Works and] Transportation; Environmental
310 Protection; the [Office of the] Sheriff; and other County government
311 departments and public agencies as necessary[.];
- 312 (e) coordinate community outreach and volunteer support of emergency
313 preparedness and homeland security[.];
- 314 (f) coordinate the County's homeland security and emergency
315 preparedness programs with federal, state, regional, local, County, and
316 municipal agencies, [and] including the Housing Opportunities
317 Commission, Montgomery College, Montgomery County Public
318 Schools, Maryland-National Capital Park and Planning Commission,
319 Washington Suburban Sanitary Commission, Washington Metropolitan

320 Area Transit Authority, and utilities and telecommunications companies
 321 doing business in the County[.];

322 (g) develop, coordinate, and manage state and federal grants relating to
 323 homeland security and emergency preparedness[.], response, and
 324 recovery; and

325 (h) [Coordinate the security of County facilities.

326 (i) Coordinate and integrate the County's public health emergency
 327 preparedness programs and response.

328 (j) undertake [other] related functions designated by the County Executive.

329 **4-33. Applicant to file certain certificates with Department.**

330 [No] The Director must not issue a license [shall be issued] under this Division
 331 unless the following certificates have been filed with the Department[.]; provided,
 332 that] However, the following certificates [shall] are not [be] required [for renewal of]
 333 to renew a license[,] unless [there has been some alteration or change in] the plans
 334 and specifications were materially altered after [the granting of] the initial license
 335 was issued. [:]

336 * * *

337 (d) A certificate from the Department of [Public Works and] Transportation
 338 that the traffic design will not impair the flow of traffic on public
 339 highways and that the entrance, exit, and parking of vehicles will not
 340 interfere with an orderly flow of traffic, in addition to any other
 341 requirements in this Article.

342 **5-101. Definitions.**

343 In this Chapter, the following words and phrases have the following meanings:

344 * * *

345 *Service animal:* Any guide or signal dog or other animal trained to work or
 346 perform tasks for a person with a disability, including guiding a person with impaired

347 vision, alerting a person with impaired hearing to intruders or sounds, providing
 348 minimal protection or rescue work, pulling a wheelchair, or fetching dropped items,
 349 or any dog used by the Department of Police, Sheriff's Office, Fire and Rescue
 350 Service, [Department of] Office of Emergency Management and Homeland Security,
 351 or any federal or state law enforcement or search and rescue agency.

352 * * *

353 **7-1. Definitions.**

354 In this Chapter:

355 * * *

356 (b) bicycle helmet means a protective helmet designed for bicycle riders
 357 that is approved by the Snell Memorial Foundation or the American
 358 National Standards Institute, or that the Director of [the Department of
 359 Public Works and] Transportation determines meets an equivalent
 360 standard.

361 **8-14A. Energy performance standards for county buildings.**

362 * * *

363 (c) The County Executive must adopt regulations under method (2) [of
 364 Section 2A-15 of this Code] to establish:

365 (1) Minimum building energy performance standards that meet or
 366 exceed the energy performance standards established by the State
 367 of Maryland under [article 78A, Annotated Code of Maryland]
 368 State law;

369 * * *

370 (d) The Director of [the Department of Public Works and Transportation]
 371 General Services may grant a variance or modification of an energy
 372 performance standard if:

- 373 (1) The architect applies for the variance or modification in writing;
- 374 and
- 375 (2) The Director gives notice of and a chance to comment on the
- 376 application to:
- 377 [a.](A) the County Council;
- 378 [b.](B) the Department of Permitting Services; and
- 379 [c.](C) the energy conservation advisory committee.

8-26. Condition of permit.

* * *

382 (j) *Compliance with performance bond for construction of streets before*
 383 *issuance of permit.* As used in this subsection, the phrase “such streets”
 384 means streets abutting the building site [plus] and those extensions of
 385 streets necessary to meet the minimum requirements of Chapter 49.

386 (1) [No] A permit [shall] must not be issued for the erection of any
 387 building or structure unless the applicant [shall first deliver]
 388 delivers to the County a performance bond for the construction of
 389 streets in all rights-of-way abutting the property [upon which
 390 such] on which the building or structure [is to] will be erected
 391 [plus] and those extensions of streets necessary to meet the
 392 minimum requirements of Chapter 49. [of this Code; provided,
 393 that no] However, a performance bond for the construction of
 394 streets [shall be required to the extent that] is not required when:

- 395 [a.](A) [Such] all streets are paved with a hard surface and have
- 396 been accepted for maintenance or are being maintained by
- 397 the County; or

398 [b.](B) [Construction of such streets has been] the County
 399 Council authorized [by the County Council] construction
 400 of each street on a front foot assessment basis.

401 * * *

402 (3) If the applicant owns, or is obligated by contract to develop, all or
 403 substantially all of the property abutting the streets, a bond in an
 404 amount to cover the cost of grading of the streets is sufficient to
 405 obtain a building permit. When the applicant does not own, and
 406 is not obligated by contract to develop, all or substantially all of
 407 the property abutting the streets, the applicant may demand that
 408 the Director of [the Department of Public Works and]
 409 Transportation present to the County Council the applicant's
 410 proposal to construct the streets on a front-foot-assessment basis.
 411 If the County Council refuses to authorize the construction of the
 412 streets on a front-foot-assessment basis, the Department must not
 413 require the applicant to post a performance bond.

414 * * *

415 **8-32. Administrative procedures.**

416 * * *

417 (b) *Review by other agencies.* The Director must also refer each application
 418 to which this Article applies for comments on the adequacy of public
 419 facilities to:

- 420 (1) the Department of [Public Works and] Transportation;
 421 (2) the Superintendent of the Montgomery County Public School
 422 System;
 423 (3) the County Fire and Rescue Service; and
 424 (4) the Department of Police.

425 Each [of those agencies and departments] recipient must submit any
 426 comments on the application to the Planning Board within 30 days after
 427 receiving the application from the Director.

428 * * *

429 **8-37. Payment.**

430 * * *

431 (c) If the applicant has applied under the Alternative Review Procedure for
 432 Metro Station Policy Areas, the applicant must agree, in a contract with
 433 the Planning Board and the Department of [Public Works and]
 434 Transportation, as a condition of plan approval to pay the first
 435 installment of the development approval payment, as provided in
 436 Section 8-41, for each building in the area covered by the subdivision
 437 plan before the Department releases a building permit for that building.
 438 In addition, the applicant, and the owner of the property if the owner is
 439 not the applicant, must expressly accept in the same contract:

- 440 (1) the applicant's liability for the entire development approval
 441 payment, and
 442 (2) the attachment to all real property in the subdivision of the lien
 443 imposed under Section 8-42(e).

444 **10B-3. Commission on Common Ownership Communities.**

445 * * *

446 (b) Designees of the County Council (if the Council selects a designee),
 447 Planning Board, Department of Environmental Protection, Department
 448 of Permitting Services, Department of [Public Works and]
 449 Transportation, Office of Consumer Protection, and Department of
 450 Housing and Community Affairs are ex-officio nonvoting members of
 451 the Commission.

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11B-1. Definitions.

Unless the context indicates otherwise, the following terms have the following meanings:

* * *

- (i) *Director* means the Director of the [Office of Procurement] Department of General Services or the Director's designee.

* * *

11B-56. Procurement of goods containing recycled materials.

* * *

- (d) *Role of Office of Procurement and Department of [Public Works and Transportation] Environmental Protection; Executive Regulations; Indirect Purchases.*

* * *

- (2) The Department of [Public Works and Transportation] Environmental Protection must provide technical assistance, when requested by the Office of Procurement or a Using Department, concerning recycled material content in any product, or similar matters.

* * *

- (e) *Report by Office of Procurement.* The Director, in consultation with the Director of [Public Works and Transportation] Environmental Protection, must submit a report to the County Council and County Executive by September 30 each year about implementation of this Section for the prior fiscal year. The report must describe County government efforts to encourage the maximum purchase of goods containing recycled materials under this Section and recommend

479 measures that could increase County purchases of goods containing
 480 recycled materials. The report should specifically provide:

481 * * *

482 **11B-65. Definitions.**

483 In this Article the following words have the meanings indicated.

484 (a) [Department means the Department of Economic Development.

485 (b) Director means the Director of the Department of Economic
 486 Development.

487 (c) Local Small Business means a business, other than a broker, that:

488 (1) generates a significant amount of economic activity in the
 489 County;

490 (2) is independently owned and operated;

491 (3) is not a subsidiary of another business; and

492 (4) meets criteria, size limits, and gross sales amounts established by
 493 method 2 regulations.

494 .[(d)](b) Local Small Business Reserve means any procurement that is
 495 limited to responses from local small businesses.

496 **18-1. Definitions.**

497 In this Chapter, the following words and phrases, have the meanings stated:

498 *County forester*: An individual in the Department of [Public Works and]
 499 Transportation designated by the Director of that Department as the County forester.

500 * * *

501 **20-38. Powers and duties of [director] Director generally.**

502 The [director of finance is hereby authorized and directed] Director of Finance,
 503 under the general direction of the [county executive] County Executive, must:

- 504 (a) *[Audit] Review and audit of claims, vouchers, etc.* [To] review and
 505 audit [and pre-audit all] accounts, claims, invoices, demands, or
 506 vouchers presented to the [county] County for payment.
- 507 (b) *Accounting system, etc.* [To] prescribe the system of accounts, reports,
 508 and expenditure and receipt documents to be used by all of the officers
 509 of the [county] County government, except as [the same may now or
 510 hereafter be] prescribed by law.
- 511 (c) *Financial records.* [To] keep the financial records of the [county]
 512 County government, including payroll.
- 513 (d) *[Investigations of county department; reports.* To make such
 514 investigation of the financial organization, activities and methods of
 515 procedure of the several county departments and establishments as he
 516 may be called upon to make by the county executive. In submitting any
 517 report, the director of finance may adopt as his the report of any
 518 independent public accountants retained by the county to the extent that
 519 the form and content on the report of such independent public
 520 accountants comply with the requirements relating to the report being
 521 submitted by the director of finance.] Annual Financial Report.
 522 prepare an Annual Financial Report containing a detailed account of all
 523 funds received and paid by the County in accordance with applicable
 524 accounting and financial reporting standards.
- 525 (e) *Inventory, storage, etc., management.* [To] coordinate the development
 526 and implementation of inventory, storage and other materials,
 527 management policies and practices of the [county] County.

528 **21-12. Master fire, rescue, and emergency medical services plan.**

- 529 (a) The Commission must review the master fire, rescue, and emergency
 530 medical services plan on an ongoing basis, and must propose any

531 appropriate amendments to the Fire Chief, Executive, and Council. The
532 master plan must include at least:

533 * * *

534 (9) a program of action to coordinate with the [Department of] Office
535 of Emergency Management and Homeland Security, the
536 County's fire prevention and control and emergency services
537 resources into County-wide, regional, State, and national
538 emergency management plans.

539 * * *

540 **22A-26. Regulations.**

541 * * *

542 (g) *List of Off-Site Property for Mitigation.* The Planning Director should
543 develop and maintain a list of properties that may be suitable for off-site
544 mitigation required under forest conservation plans. The Planning
545 Director should develop the list in coordination with the County
546 Arborist, the Department of Environmental Protection, the Department
547 of [Public Works and] Transportation, the Department of General
548 Services, the Department of Economic Development, the Soil
549 Conservation District, and other appropriate agencies.

550 * * *

551 **22A-31. Forest Conservation Advisory Committee.**

552 * * *

553 (c) *Composition and terms of members.*

554 * * *

555 (2) The Executive must designate a staff member from each of the
556 following departments to serve as an ex officio member:

557 (A) Economic Development;

- 558 (B) Environmental Protection; and
 559 (C) [Public Works and] Transportation.

560 * * *

561 **27-51. Commission-Composition and appointments; meetings; staff.**

- 562 (a) *Composition and appointment.* There is a Commission on People with
 563 Disabilities. The Commission has 25 voting members, and at least 5
 564 nonvoting members, including:

565 * * *

- 566 (4) one nonvoting member from the:
 567 (A) Department of Recreation;
 568 (B) Department of [Public Works and] Transportation; and
 569 (C) Human [Relations] Rights Commission; and

570 * * *

571 **31-29. Uses prohibited.**

572 * * *

- 573 (b) Notwithstanding [the provisions of] subsection (a), the County
 574 Executive must establish, by regulation adopted under method (3),
 575 procedures [for issuing] to issue written permits for the use of County
 576 owned or leased and operated parking facilities for storage and off-street
 577 parking purposes under the following conditions:

- 578 (1) Storage or parking restricted to areas of the facility designated by
 579 the Department of [Public Works and] Transportation.

580 * * *

581 **31-51. Enforcement and administration; fines and penalties; signs.**

582 * * *

- 583 (d) *Waivers and refunds.* The Director of [the Department of Public Works
 584 and] Transportation must submit a quarterly report to the County

585 Executive that identifies all fines, penalties, costs, and other charges that
586 have been waived or refunded as authorized under subsection (b)(2) and
587 (3).

588 * * *

589 **31-52. Duties and responsibilities of the Department of [Public Works and]**
590 **Transportation.**

591 (a) The Director of [the Department of Public Works and] Transportation
592 [shall provide for,] must maintain records of and control the issuance of
593 pre-numbered parking violation notices to the [department of police]
594 Department of Police and other departments authorized by the [county
595 executive] County Executive to enforce the [regulations and provisions
596 of this Code] law relative to illegal parking.

597 * * *

598 **31-54. Duty of police officers or other authorized persons to issue notice of**
599 **violation [and report same].**

600 * * *

601 (c) [Said] Each notice of violation shall instruct the owner or operator
602 [thereof], or either of them, to pay within [fifteen (15)] 15 days to the
603 Department of [Public Works and] Transportation as penalty [and in full
604 satisfaction] for [such] the violation, the fine specified by [the county
605 executive] Council resolution [as provided for in] under this [article]
606 Article, or to give written notice, within [fifteen (15)] 15 days, to the
607 Department, of the owner or operator's intention to stand trial for [said]
608 the violation in the [district court] District Court.

609 * * *

610 **31-57. Failure to pay or comply; penalty in addition to fine.**

611 * * *

612 (b) Whenever the Department of [Public Works and] Transportation or its
 613 agent [is able to ascertain] can find, by reasonable access to state motor
 614 vehicle administration registration records, the name and address of the
 615 owner [thereof], the Department or agent [shall] must immediately [give
 616 or cause to be given a notice] notify the owner in writing [to such
 617 owner] that:

- 618 (1) the violation is overdue and delinquent, [but that]
 619 (2) the additional penalty has been added, and [that]
 620 (3) the owner's failure [to such owner] to [make such payment in full
 621 satisfaction of the violation] pay the entire fine and penalty[, shall
 622 render such] makes the owner subject to the warrant and other
 623 penalties provided by this Chapter.

624 **31-69. Residential Traffic Management Areas.**

625 * * *

626 (g) The Department of [Public Works and] Transportation must seek advice
 627 on any proposed plan from affected residents and other interested
 628 persons on an ongoing basis through regular open meetings and other
 629 reasonable means.

630 * * *

631 **38-16. Access roads.**

632 * * *

633 (b) *Outside the license boundary.*

634 * * *

635 (6) If the licensee or haulers do not remove spillage or other quarry-
 636 related road debris from a roadway promptly, the Department of
 637 [Public Works and] Transportation may arrange [for removal of]
 638 to remove the spillage or debris at the expense of the licensee and

639 haulers. The licensee and all haulers using the quarry during the
 640 week the spillage occurred are jointly and severally responsible
 641 for this expense.

642 * * *

643 **42A-9A. Traffic mitigation agreements for certain developments.**

644 (a) (1) A traffic mitigation agreement that is required to be executed
 645 with the County under Article IV of Chapter 8 as a prerequisite to
 646 the issuance of a building permit must meet the requirements of
 647 this section.

648 * * *

649 (4) A traffic mitigation agreement executed under this Section is not
 650 intended to satisfy the requirements of the Growth Policy for
 651 exceeding staging ceiling limitations. Until the County Council
 652 adopts specific traffic mitigation or commuting goals in the
 653 Growth Policy, the goal of a traffic mitigation agreement [is]
 654 must be to have the percentage of non-driver trips employees
 655 make during the peak period equal the percentage of home-based
 656 work trips non-drivers make [within] in the policy area. The
 657 mitigation agreement should consider proximity to Metro and
 658 other relevant factors [set forth] listed in subsection (e). The
 659 percentage of non-driver trips the employees make during the
 660 peak period must not be lower than 15 percent or the percentage
 661 of home-based work trips using transit, whichever is greater. The
 662 percentage must not be higher than 35 percent. In determining
 663 the appropriate percentage of home-based work trips for non-
 664 drivers under this paragraph, the Department of [Public Works

665 and] Transportation must use data of commuting patterns from
 666 the most recent census update.

667 (5) A traffic mitigation agreement executed as part of site plan
 668 review satisfies the requirements of this section. [After July 24,
 669 1989, the] The Department of [Public Works and] Transportation
 670 should review and comment on [all such agreements] each
 671 agreement.

672 (6) The Department of [Public Works and] Transportation must
 673 submit [all] each proposed traffic mitigation [agreements]
 674 agreement to the Planning Department for review and comment.

675 (b) The permit applicant and the Department of [Public Works and]
 676 Transportation must execute a traffic mitigation agreement before a
 677 building permit is issued. If the applicant is not the owner of the
 678 property subject to the permit application, each owner of the property
 679 must also execute the traffic mitigation agreement if the agreement
 680 requires that owner to take any action. A traffic mitigation agreement
 681 executed by an owner must apply to all successors in interest to the
 682 owner of the property [for] during the term of the agreement. The
 683 owner must record the executed agreement in the County land records
 684 [of the County].

685 * * *

686 (e) In determining reasonable and otherwise appropriate provisions of a
 687 traffic mitigation agreement, the Director of [the Department of Public
 688 Works and] Transportation must consider, among other relevant factors:

689 * * *

690 **42A-21. Definitions.**

691 In this Article, unless the context indicates otherwise:

692

* * *

693 *Department* means the Department of [Public Works and] Transportation.

694 *Director* means the Director of the Department of [Public Works and]

695 Transportation or the Director's designee.

696

* * *

697 **47-2. Hours and places of operation.**

698

* * *

699 (b) The Director may issue licenses for a limited number of stationary or
 700 slow-moving pushcarts or similar vehicles, not larger than a size set by
 701 regulation, from which a licensee may sell goods on designated
 702 sidewalks or rights-of-way in a Central Business District planning
 703 policy area (as defined in the County Growth Policy). The Director by
 704 regulation under method (2) must limit the number of vehicles licensed
 705 in each Central Business District and the number of licensees who can
 706 sell any particular type of goods. If more persons apply for any
 707 category of licenses under this subsection than the number available, the
 708 Director must first consider renewing each previous licensee and then
 709 conduct a lottery among qualified applicants for the remaining licenses.
 710 A licensee under this subsection may locate on a public right-of-way
 711 only if the Director of [Public Works and] Transportation concurs that
 712 the licensee's operation at that location will not unduly affect vehicular
 713 or pedestrian safety.

714

* * *

715 **48-1. Definitions.**

716 In this Chapter, the following words and phrases have the following meanings:

717

* * *

718 *Department:* The Department of [Public Works and Transportation]
719 Environmental Protection.

720 *Director:* The Director of the Department of [Public Works and
721 Transportation] Environmental Protection, or the Director’s designee.

722 * * *

723 **48-3. Administration of chapter.**

724 (a) The Director of [the Department of Public Works and Transportation
725 administers] Environmental Protection must administer this Chapter.

726 (b) [The Chief Administrative Officer may assign the Department of
727 Environmental Protection to enforce any specific provision of this
728 Chapter. If the Chief Administrative Officer assigns or revokes the
729 assignment of enforcement authority under this subsection, the Chief
730 Administrative Officer must publish a notice of that action in the
731 Montgomery County Register. The notice must specify whether any
732 enforcement authority assigned to the Department of Environmental
733 Protection is exclusive or shared with the Department of Public Works
734 and Transportation.

735 (c)] The Director may waive any requirement of this Chapter when:
736 (1) practical difficulties, undue hardships or other good cause
737 prevents any person from carrying out this Chapter; and
738 (2) the waiver is not contrary to the spirit and intent of this Chapter
739 and other applicable law, and does not materially impair the
740 public welfare and safety.

741 (c) Any aggrieved party may appeal the grant or denial of a waiver to the
742 County Board of Appeals under Section 48-28.

743 **49-2. Resolving doubt as to location of County roads.**

744 (a) Whenever any doubt exists as to the proper location or width of a
 745 County road, the Director of [Public Works and] Transportation may
 746 cause the road to be surveyed and a description and plat made of it and
 747 recorded or filed in the County land records. This description and plat
 748 must be treated as correct by the County and in the State courts until
 749 shown to be incorrect.

750 **49-3. Authority to classify road repairs.**

751 The Director of [Public Works and] Transportation may decide whether a
 752 given road repair job should be classified as maintenance or construction under this
 753 Chapter.

754 **49-9. Removal of items that obstruct the vision of motorists on public highways
 755 or interfere with the use of public rights-of-way.**

756 (a) *Notice to owner of property.* If the Director of [Public Works and]
 757 Transportation finds that any tree, bush, vine, undergrowth, or other
 758 obstruction, except a building or similar structure affixed to the ground,
 759 on private property poses a threat to public safety by obstructing the
 760 vision of operators of vehicles traveling on any public street, road, or
 761 highway, interfering with the public rights-of-way as a traffic hazard,
 762 limiting access by Fire and Rescue Service vehicles, or restricting the
 763 use by pedestrians or bicyclists of the public rights-of-way, the Director
 764 promptly must serve on the owner, agent, lessee or any other person
 765 supervising the property a written notice that:

766 * * *

767 (c) *Effect of failure to remove obstructions.* When any person does not
 768 comply with any order issued under this Section within the time
 769 specified in the order, the Director of [Public Works and]
 770 Transportation must remove all or part of the obstruction as necessary to

771 eliminate the hazard or impediment. An agent of the Department may
 772 enter the property to take this action.

773 * * *

774 **49-11. Permit to obstruct public rights-of-way.**

775 * * *

776 (g) Before the Director issues a permit under this Section to close a
 777 sidewalk, curb lane, or shared use path, the Director of [Public Works
 778 and] Transportation must approve a temporary traffic control plan. A
 779 professional engineer must certify for the applicant that the plan
 780 minimizes inconvenience to the public, provides necessary warnings,
 781 and includes safe and reasonable pedestrian alternatives in accordance
 782 with accepted engineering standards.

783 * * *

784 **49-26. Definitions.**

785 In this Chapter, except where specified otherwise, the following words and
 786 phrases have the meanings indicated:

787 * * *

788 *Director:* The Director of [Public Works and] Transportation or the Director of
 789 Permitting Services, as specified, and each Director's [agent] designee.

790 * * *

791 **49-28. Standards and specifications.**

792 * * *

793 (b) The Director of [Public Works and] Transportation may set a fee by
 794 method 2 regulations for the review of any plan or document submitted
 795 under Chapter 50 or this Chapter. Each fee must be based on the costs
 796 of reviewing any plan or document and any staff participation in the

797 subdivision process. The Department must provide a copy of each fee
798 regulation to the Planning Board.

799 (c) The Department of [Public Works and] Transportation must make
800 available to the public, free or at a reasonable cost, an up-to-date copy of
801 all applicable County road design standards and specifications.

802 **49-30. Traffic Calming.**

803 (a) The Director of [Public Works and] Transportation must consider
804 installing traffic calming and bicycle- and pedestrian-friendly design
805 features in any residential street over 1,000 feet long, minor arterial,
806 business district street, and industrial street. Traffic calming features
807 include raised crosswalks and raised intersections, traffic circle,
808 medians, pedestrian refuge island, chokers, smaller centerline radii,
809 parking cut-outs, and special paving and streetscaping in central
810 business districts or other commercial areas.

811 * * *

812 **49-31. Classification of roads.**

813 * * *

814 (p) An Alley is a right-of-way intended to provide secondary service access
815 to the rear or side of lots or buildings and not intended for transporting
816 through traffic. An alley may be used to provide primary vehicular
817 access if the Planning Board and the Director of [Public Works and]
818 Transportation concur that the dimensions and specifications proposed
819 in a project, preliminary subdivision, or site plan would provide
820 adequate primary vehicular access.

821 **49-32. Design standards for types of roads.**

822 * * *

823 (e) Grass shoulders must be load bearing at any specific [locations] location
824 designated by the Director of Permitting Services after consulting the
825 Fire Chief and Director of [Public Works and] Transportation.

826 * * *

827 **49-33. Road construction requirements.**

828 * * *

829 (b) The Department of [Public Works and] Transportation must erect, or
830 order a permittee to erect, name signs at [all] each road [intersections]
831 intersection. If the Director of [Public Works and] Transportation finds
832 that traffic control or vehicular or pedestrian safety so requires, the
833 Director may order a permittee to install traffic control signs, markings,
834 or other devices on any right-of-way that will be publicly maintained.

835 * * *

836 (e) If a lot or lots front on a public road, the permittee must install
837 sidewalks, curbs, and gutters, except on any Secondary or Tertiary
838 Residential Street, or Service Drive fronting on any lot in a residential
839 zone. This requirement does not apply if the minimum net lot area for a
840 one-family detached dwelling in that zone is larger than 25,000 square
841 feet, except that a sidewalk must be installed on any primary or higher
842 classification road. However, the Planning Board may require
843 sidewalks, curbs, and gutters in any such zone if the Board finds, as a
844 condition of approval of a preliminary subdivision plan or site plan, that
845 sidewalks, curbs, and gutters at that location are necessary to allow
846 access:

- 847 (1) to a sidewalk;
- 848 (2) to a bus or other public transit stop;

849 (3) to an amenity or public facility that will be used by occupants of
850 the site or subdivision; or

851 (4) by persons with disabilities.

852 Before the Planning Board approves any requirement under the
853 preceding sentence, the Board must give the Departments of Permitting
854 Services and [Public Works and] Transportation a reasonable
855 opportunity to comment on the proposed requirement.

856 * * *

857 (h) If drainage structures are required for any particular class of road, the
858 Planning Board must require the applicant to install or construct
859 drainage structures that the Board finds are necessary or appropriate,
860 after reviewing a preliminary drainage study approved by the
861 Department of [Public Works and] Transportation, in accordance with
862 applicable design standards and specifications.

863 * * *

864 (j) *Street trees.*

865 (1) On public road rights-of-way, street trees must be planted in
866 accordance with design standards of the Department of [Public
867 Works and] Transportation. On private road rights-of-way and
868 easements, street trees must be planted in accordance with the
869 technical manual adopted by the Planning Board under Chapter
870 22A.

871 (2) The Department of Permitting Services, the Department of
872 [Public Works and] Transportation, and the staff of the Planning
873 Board should coordinate the specific location and species of
874 street tree plantings to promote compatibility of the plantings
875 with road function and safety, signage, maintenance, appropriate

876 visual buffering, utilities, other public or private improvements,
877 and aesthetic considerations related to streetscape design.

878 (k) *Ground cover.*

879 * * *
880 (3) The Director of [Public Works and] Transportation, after
881 consulting the Directors of Environmental Protection and
882 Permitting Services, must issue guidelines that allow and
883 encourage a property owner to place and maintain ground cover
884 in the public right-of-way adjacent to the owner's property. The
885 guidelines must encourage use of ground cover that is
886 environmentally sensitive and promotes conservation of natural
887 resources and more sustainable landscaping, including plant
888 species that:

- 889 (A) require reduced or no mowing, fertilizing, or other
890 maintenance;
891 (B) are drought tolerant and require little watering at any
892 time;
893 (C) do not inhibit growth of nearby trees; and
894 (D) include non-turf grasses.

895 * * *

896 (l) *Curbs and gutters.*

897 (1) A person must not install any curb or gutter in any portion of a
898 road that is located in:

- 899 (A) an environmentally sensitive watershed area, including a
900 Class III, Class IV, or high-quality Class I watershed, as
901 designated by the Maryland Department of the
902 Environment; or

903 (B) an area that the Department of Environmental Protection
904 designates as environmentally sensitive, after giving the
905 Department of [Public Works and] Transportation and the
906 Planning Board a reasonable opportunity to comment.

907 * * *

908 **49-40. Waivers of requirements of Article.**

909 * * *

910 (c) * * *

911 (1) The Director of Permitting Services, after reviewing detailed
912 plans and specifications of the proposed improvements, must
913 recommend in writing, using waiver criteria developed by the
914 Department of [Public Works and] Transportation, that the
915 Executive should approve or disapprove the improvements
916 proposed in the plans submitted by the applicant and state the
917 reasons for the recommendation. The failure of the Director to
918 act on the plans within 30 days after submission constitutes the
919 Director's support of the Executive granting the waiver.

920 * * *

921 **49-62. Abandonment authority; scope of Article; procedures.**

922 * * *

923 (b) *Application.* Any person or government agency may file an application
924 with the Department of [Public Works and] Transportation to close or
925 abandon any right-of-way. In this Article, unless the context clearly
926 indicates otherwise, *Department* refers to the Department of [Public
927 Works and] Transportation.

928 * * *

929 (h) *Agencies.* The government agencies and other parties from which the
930 Executive must solicit a response are:

931 (1) the Department of [Public Works and] Transportation;

932 * * *

933 (i) *Temporary closure.* This Article does not apply to any temporary
934 closure required by a construction traffic control plan if the closure does
935 not last longer than 12 months. If special circumstances require that a
936 temporary closure last longer than 12 months, the Director of [Public
937 Works and] Transportation must apply to the Council for approval to
938 extend the closure for a specified period that does not exceed 24
939 months. The Council by resolution may approve an extended
940 temporary closure under this subsection without following the
941 procedures in this Article.

942 **49-65. Notice to Planning Board; filing subdivision plat.**

943 (a) Not less than 30 nor more than 60 days after the Council adopts the
944 resolution to approve an abandonment or closing, the Council Clerk
945 must notify the Planning Board, the Directors of Permitting Services
946 and [Public Works and] Transportation, and the County Attorney that
947 the Council has authorized the abandonment or closing.

948 * * *

949 **49-67. Notice of abandonment or closure.**

950 Before abandoning or closing any right-of-way after Council approval under
951 this Article, the Director of [Public Works and] Transportation must cause to be
952 posted prominently in the area of the right-of-way, for at least 15 days after the
953 Council action, a notice listing the date when the right-of-way will be abandoned or
954 closed.

955 **49-68. Abandonment of previously unused rights-of-way.**

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* * *
* * *
* * *

- (b) The petitioner must notify:
 - (1) each person with a recorded financial interest in land abutting the right-of-way;
 - (2) the Department of [Public Works and] Transportation;

49-70. Designating means of access to certain highways.

* * *

- (b) If any existing County road is classified as a Freeway or Controlled Major Highway:
 - (1) The Director of [Public Works and] Transportation may, by agreement or condemnation, restrict or limit the right of any owner of land abutting the Freeway or Controlled Major Highway to lay out or construct any new means of access to, from or across the abutting land to or from the Freeway or Controlled Major Highway or to enlarge or extend any existing means of access. The Director may[, from time to time,] designate points where access is permitted, or permit changes in existing means of access, consistent with any applicable master plan, on specified terms and conditions.

* * *

49-72. Control of use and access.

When any road has been constructed or designated as a Freeway or Controlled Major Highway, the Director of [Public Works and] Transportation:

* * *

49-73. Access to Freeway or Controlled Major Highway where it divides property under one ownership.

983 If real property held by one owner is severed by a Freeway or Controlled
 984 Major Highway, the Director of [Public Works and] Transportation may provide for
 985 access across the Freeway or Controlled Major Highway from one such tract to the
 986 other, either at grade or below or above grade, [upon] on such conditions as
 987 [prescribed] the Director sets. Any connecting road or roads must not be used for or
 988 in connection with the conduct of any roadside business or enterprise. If the affected
 989 land is no longer held under one ownership, the Department may discontinue any
 990 access road.

991 * * *

992 **49-74. Right of access.**

993 When a road is constructed as a Freeway or Controlled Major Highway, an
 994 owner of land abutting the road or other person must not have any right of access to,
 995 from, or across any abutting land to or from the Freeway or Controlled Major
 996 Highway. At the time of the construction of the Freeway or Controlled Major
 997 Highway or thereafter, the Director of [Public Works and] Transportation may
 998 designate points at which access will be permitted, on [terms and] conditions [as] the
 999 Director [may specify from time to time] sets.

1000 **49-81. Pedestrian and Traffic Safety Advisory Committee.**

1001 * * *

1002 (c) *Composition and terms of members.*

1003 (1) The Committee has 17 members.

1004 (2) The Executive must appoint a representative from each of the
 1005 following departments as members:

1006 (A) the Police Department;

1007 (B) the Department of [Public Works and] Transportation; and

1008 (C) one of the Regional Services Centers.

1009 * * *

1010 **52-48. Findings; purpose and intent.**

1011 * * *

1012 (i) The County’s findings are based [upon] on the adopted or approved
1013 plans, planning reports, capital improvements programs identified in
1014 this Article, and specific studies conducted by the Department of
1015 [Public Works and] Transportation and its consultants.

1016 * * *

1017 **52-55. Credits.**

1018 (a) A property owner is entitled to a credit if the owner, before July 1, 2002,
1019 entered into a participation agreement, or a similar agreement with the
1020 state or a municipality, the purpose of which was to provide additional
1021 transportation capacity. A property owner is also entitled to a credit if
1022 the owner receives approval before July 1, 2002, of a subdivision plan,
1023 development plan, or similar development approval by the County or a
1024 municipality that requires the owner to build or contribute to a
1025 transportation improvement that provides additional transportation
1026 capacity. The Department of [Public Works and] Transportation must
1027 calculate the credit. The credit must equal the amount of any charge
1028 paid under the participation agreement. The Department may give
1029 credit only for building permit applications for development on the site
1030 covered by the participation agreement. The Department must not give
1031 a refund for a credit earned under this subsection.

1032 (b) * * *

1033 * * *

1034 (2) The Department of [Public Works and] Transportation must:

1035 * * *

1036 (3) An applicant for subdivision, site plan, or other development
 1037 approval from the County, Gaithersburg, or Rockville, or the
 1038 owner of property subject to an approved subdivision plan,
 1039 development plan, or similar development approval, may seek a
 1040 declaration of allowable credits from the Department of [Public
 1041 Works and] Transportation. The Department must decide, within
 1042 30 days after receiving all necessary materials from the applicant,
 1043 whether any transportation improvement which the applicant has
 1044 constructed, contributed to, or intends to construct or contribute
 1045 to, will receive a credit under this subsection. If during the initial
 1046 30-day period after receiving all necessary materials, the
 1047 Department notifies the applicant that it needs more time to
 1048 review the proposed improvement, the Department may defer its
 1049 decision an additional 15 days. If the Department indicates under
 1050 this paragraph that a specific improvement is eligible to receive a
 1051 credit, the Department must allow a credit for that improvement
 1052 when taking action under paragraph 2.

1053 * * *

1054 (e) Any property owner who, before May 1, 2001, built all or part of a
 1055 project in the Clarksburg planning policy area which is listed in the
 1056 impact tax transportation program (including building any road which
 1057 would be widened under the program) is entitled to a credit equal to the
 1058 reasonable cost of the improvement. The Department of [Public Works
 1059 and] Transportation must calculate the credit. The Department must not
 1060 give a refund for a credit earned under this subsection.

1061 * * *

1062 **Chapter 53. TAXICABS [AND LIMOUSINES].**

1063 **53-101. Definitions.**

1064 In this Chapter, unless the context indicates otherwise:

1065 * * *

1066 *Department* means the Department of [Public Works and] Transportation.

1067 * * *

1068 **60-12. Administration and enforcement generally.**

1069 (a) [The] Subject to the terms and conditions of this Chapter, the
 1070 Department of [Public Works and] Transportation administers and
 1071 enforces this Chapter. [Subject to the terms and conditions of this
 1072 Chapter, the] The Department [is responsible for acquiring,
 1073 constructing, operating, and maintaining] must operate and maintain
 1074 off-street parking facilities acquired and constructed by the County
 1075 under this Chapter[, and for operating and maintaining off-street parking
 1076 facilities] or leased to the County. The Department must review plans
 1077 for off-street parking facilities that any person submits to qualify for the
 1078 exemption from the special taxes prescribed in this Chapter. This
 1079 section does not apply to off-street parking facilities the Revenue
 1080 Authority leases from the County.

1081 (b) The Department of General Services must acquire and build off-street
 1082 parking facilities and renovate off-street parking facilities that will not
 1083 remain open during the work.

1084 **60-14. Application for exemption; determination.**

1085 (a) Any property owner or lessee in any district may apply, in the following
 1086 manner, for an exemption from the special taxes prescribed in this
 1087 Chapter. On or before April 1 of the application year, the owner or
 1088 lessee must file with the Department of [Public Works and]
 1089 Transportation an application in the form and containing information

1090 the Department requires to determine whether the Department should
 1091 grant an exemption. [Whenever] If the Department grants an exemption
 1092 for a particular property, the exemption continues for [any] each
 1093 successive year unless there is a change in the number of parking spaces
 1094 or in the floor area, number of employees, or any other factor governing
 1095 the number of automobile parking spaces required to qualify for
 1096 continued exemption. The property owner or lessee promptly must
 1097 notify the Department [of Public Works and Transportation] of any
 1098 change in qualifying factors. The Department may, [from time to time
 1099 but] not more than once in any 12 month period, require any lessee or
 1100 owner of exempt property to file an information return to determine
 1101 whether the property meets the requirements for exemption. The
 1102 exemption ends if the lessee or owner does not file the information
 1103 return.

1104 (b) The Department of [Public Works and] Transportation must determine
 1105 whether to grant an exemption according to this Chapter, and must
 1106 notify the applicant by mail of the [Department's] determination.

1107 (c) The applicant may, within 30 days after [the mailing of] the notice
 1108 referred to in subsection (b) is mailed, appeal the determination [of the
 1109 Department] to the appeal tax court for the County by delivering to the
 1110 appeal tax court a petition stating:

- 1111 (1) the applicant's name and address;
- 1112 (2) the name of the owner of the property;
- 1113 (3) the lessee, if any;
- 1114 (4) a description of the property;
- 1115 (5) the zoning classification of the property;

1116 (6) the decision of the Department [of Public Works and
1117 Transportation]; and

1118 (7) a brief statement of the grounds of the appeal.

1119 The applicant must deliver a copy of the petition to the Department.

1120 * * *

1121 **60-16. Purpose of parking lot funds.**

1122 * * *

1123 (c) (1) Notwithstanding the [limitations] limits in subsection (a) or (b) or
1124 any other provision of this Chapter, the County Council may
1125 transfer revenue from parking fees to:

1126 (A) [To] the fund of any urban district from which the fees are
1127 collected, as limited by Section 68A-4(a)(2)b;

1128 (B) [To] fund activities of the Department of [Public Works
1129 and] Transportation to implement transportation system
1130 management under Section 42A-13 and Section 42A-23.
1131 Parking fee revenue transferred to fund activities in a
1132 transportation system management district must not exceed
1133 parking fees collected in that transportation system
1134 management district; and

1135 (C) [To] fund activities of the Department of [Public Works
1136 and] Transportation in a parking lot district, other than any
1137 parking lot district where a transportation system
1138 management district is operating to:

1139 (i) [To] promote, develop, and implement transit and
1140 ridesharing incentive programs; and

1141 (ii) [To] establish cooperative County and private sector
1142 programs to increase ridesharing and transit usage.

1143 Parking fee revenue transferred to fund these activities
 1144 must derive only from parking fees collected in that
 1145 parking lot district.

1146 (2) In this subsection, "parking fee" means revenue from parking
 1147 meters, parking permits, or any other user charge for parking.

1148 * * *

1149 **Sec. 2.** Any responsibility or right granted by law, ordinance, regulation,
 1150 delegation of authority, contract, or other document to the Department of Public
 1151 Works and Transportation in connection with designing, building, and maintaining
 1152 County facilities (except maintaining or renovating public parking facilities under
 1153 Chapter 60, as provided for under Section 1 of this Act), maintaining County vehicles
 1154 and equipment, acquiring and disposing of real property not associated with roads,
 1155 bridges, and other related transportation facilities, and operating mail, printing, and
 1156 duplication services, is transferred to the Department of General Services.

1157 **Sec. 3.** Any regulation in effect when this Act takes effect that implements a
 1158 function transferred to another Department or Office under Section 1 of this Act
 1159 continues in effect, but any reference in any regulation to the Department from which
 1160 the function was transferred must be treated as referring to the Department to which
 1161 the function is transferred. The transfer of a function under this Act does not affect
 1162 any right of a party to any legal proceeding begun before this Act took effect.

1163 **Sec. 4.** Any responsibility or right granted by law, ordinance, regulation,
 1164 delegation of authority, contract, or other document to the Department of Economic
 1165 Development in connection with the Small Business Reserve Program is transferred
 1166 to the Department of General Services.

1167 **Sec. 5** Any responsibility or right granted by law, ordinance, regulation,
 1168 delegation of authority, contract, or other document to the Department of Homeland

1169 Security is transferred to the Office of Emergency Management and Homeland
1170 Security.

1171 **Sec. 6.** Any responsibility or right granted by law, ordinance, regulation,
1172 delegation of authority, contract, or other document to the Department of Public
1173 Works and Transportation in connection with solid waste is transferred to the
1174 Department of Environmental Protection.

1175 **Sec. 7.** Any duty or authority involving solid waste assigned by the County's
1176 Comprehensive Solid Waste Management Plan to the Department of Public Works
1177 and Transportation and the Director of that Department are reassigned to the
1178 Department of Environmental Protection and the Director of that Department,
1179 respectively. Any reference in that Plan to the Department of Public Works and
1180 Transportation or the Director of that Department must be treated as referring to the
1181 Department of Environmental Protection and the Director of the Department of
1182 Environmental Protection, respectively.

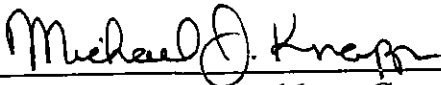
1183 **Sec. 8. Expedited Effective Date.**

1184 The Council declares that this legislation is necessary for the immediate
1185 protection of the public interest. This Act takes effect on July 1, 2008.

1186 *Approved:*

1187

1188



Michael J. Knapp, President, County Council

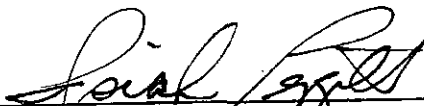
16 APR 08

Date

1189 *Approved:*

1190

1191



Isiah Leggett, County Executive

22 April 08

Date

1192 *This is a correct copy of Council action.*

1193 *Linda M. Lauer* *April 25, 2008*
Linda M. Lauer, Clerk of the Council Date