

Clerk's Note: Made technical corrections on pages, 8, 10, and 12.

Bill No. 36-18  
Concerning: Transportation  
Management - Transportation  
Demand Management Plan -  
Amendments  
Revised: December 3, 2019 Draft #11  
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Executive: December 12, 2019  
Effective: March 13, 2020  
Sunset Date: None  
Ch. 28, Laws of Mont. Co. 2019

## 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 ACT** to:

- (1) expand transportation demand management to reduce traffic congestion and automobile emissions, support multi-modalism and achievement of non-automobile travel goals, enhance the efficient use of transportation infrastructure, and promote the sustainability of existing and future development;
- (2) establish the requirements for a transportation demand management plan for development in certain areas of the County; and
- (3) update the law governing transportation management in the County.

By amending

Montgomery County Code  
Chapter 42A, Ridesharing and Transportation Management  
Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-27, 42A-28, 42A-29,  
and 42A-30

By adding

Montgomery County Code  
Chapter 42A, Ridesharing and Transportation Management  
Sections 42A-31 and 42A-32

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*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:*

1           **Sec. 1. Sections 42A-21, 42A-22, 42A-23, 42A-24, 42A-25, 42A-26, 42A-**  
 2 **27, 42A-28, 42A-29, and 42A-30 are amended and Sections 42A-31 and 42A-32**  
 3 **are added as follows:**

4 **42A-21. Definitions.**

5           In this Article, unless the context indicates otherwise:

6           *Alternative work hours program* means any system that shifts the workday of  
 7 an employee so that the workday starts or ends outside of a peak period,  
 8 including:

- 9           (1) compressed workweeks;
- 10           (2) staggered work hours involving a shift in the set work hours of  
 11 an employee at the workplace; or
- 12           (3) flexible work hours involving individually determined work  
 13 hours under guidelines established by the employer.

14           *Bundling of parking* means a requirement by the seller or lessor that a  
 15 prospective purchaser or tenant purchase or lease a minimum number of  
 16 parking spaces in the facility as a precondition to buying or leasing space or  
 17 renewing a lease in a commercial or residential building. Bundling of parking  
 18 does not include:

- 19           (1) the provision of parking spaces as a component of a sale or lease  
 20 when voluntarily requested by a prospective purchaser or lessee;  
 21 or
- 22           (2) a parking space physically integrated with an individual leasable  
 23 or sales unit if the parking space is dedicated to that unit and can  
 24 be directly accessed through that unit such that only occupants  
 25 of that unit are able to use the space or spaces.

26           *Carpool* means a motor vehicle occupied by 2 or more employees traveling  
 27 together.

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

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

32 (1) the date on which 80 percent of a building or project has been  
 33 leased or sold; or

34 (2) two years after the first final use and occupancy certificate has  
 35 been issued.

36 *Department* means the Department of Transportation.

37 *Director* means the Director of the Department of Transportation or the  
 38 Director’s designee.

39 *District* means a transportation management district created under this Article.

40 *Employee* means a person hired by an employer, including a part-time or  
 41 seasonal worker or a contractor, reporting to or assigned to work on a regular  
 42 basis at a specific workplace controlled by that business or organization,  
 43 including a teleworker.

44 *Employer* means any [public or private] business or government entity,  
 45 including the County, employing 25 or more [employees and having a  
 46 permanent place of business] employees including contractors ~~[[at]]~~ assigned  
 47 to a worksite ~~[[within]]~~ [in] ~~[[a district]]~~. [The maximum number of  
 48 employees on the largest shift working in a district determines the size of the  
 49 employer.] Employer does not include:

50 (1) a [contractor, business, or government entity with no permanent  
 51 place of business in a district] home-based business;

52 (2) [a home-based business;

53 (3)] a business with no employees housed at that work site;

54 [(4) any business with no permanent workplace or location;] or

55            [(5)] (3)        any government agency not required by law to follow  
 56                            County regulations.

57            [Growth Policy means the most recently adopted Growth Policy under Section  
 58            33A-15.]

59            NADMS goal means the specific NADMS percentage goal for peak period  
 60            commuters in a District or a Policy Area that has been established through a  
 61            Master Plan, through the Subdivision Staging Policy, or through regulation.

62            Non-Auto Driver Mode Share or NADMS means the percent of commuters  
 63            who travel by modes other than driving an automobile. NADMS includes  
 64            commuters who travel by transit, vanpool, biking, walking, or connecting to  
 65            the workplace electronically. NADMS does not include carpool or vanpool  
 66            drivers, but it does include carpool and vanpool passengers.

67            Peak period means the hours of highest transportation use [[in a district]] each  
 68            workday, as defined in the resolution creating a [[district]] District, as  
 69            established in the Subdivision Staging Policy, or established through a  
 70            technical study.

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

73            Policy Area means a Transportation Policy Area adopted by the County  
 74            Council through the Subdivision Staging Policy.

75            Project-based TDM Plan means a TDM plan for a new development project.

76            Resident means an adult domiciled in the relevant area.

77            Single-occupancy vehicle means a motor vehicle occupied by one employee  
 78            for commuting purposes, other than a two-wheeled vehicle.

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

81            Telework means a work arrangement where a manager directs or permits an  
 82            employee to perform usual job duties away from the central workplace in

83 accordance with established performance expectations and agency-approved  
 84 or agreed-upon terms.

85 Traffic Mitigation Plan or TMP means a set of strategies designed to  
 86 implement TDM at an existing commercial or residential building or by an  
 87 employer in an existing building.

88 Transportation demand management or TDM means any method of reducing  
 89 demand for road capacity, especially during a peak period, including an  
 90 alternative work hours program, carpools, vanpools, subsidized transit [pass]  
 91 passes, preferential parking for carpools or vanpools, improved bicycle and  
 92 pedestrian access and safety, public transportation, and [or peak period] a  
 93 parking charge, or other parking management strategies.

94 Transportation Demand Management Plan or TDM Plan means a set of  
 95 strategies designed to implement TDM for a new or existing building, a new  
 96 or existing development project, or an employer.

97 *Transportation management organization* means a public, nonprofit private,  
 98 or public-private firm, corporation, or instrumentality created or contracted to  
 99 manage or coordinate transportation demand management programs.

100 *Vanpool* means a [van occupied by at least 8 employees traveling together]  
 101 vehicle that has the capacity for 6 or more passengers in addition to the driver  
 102 if:

- 103 (1) passengers occupy 50% or more of the seats at any point during  
 104 the trip; and
- 105 (2) the vehicle is used to transport employees between their  
 106 residences, designated locations, and their place of employment  
 107 for 80% or more of the miles the vehicle is driven.

108 *Workplace* means the place of employment, base of operations, or  
 109 predominant location of an employee.

110 **42A-22. Findings and purposes.**

- 111 (a) New economic development is important to stimulate the local  
 112 economy. Focusing new development in high transit-service areas is  
 113 an important County land use and economic development objective.
- 114 (b) Limited transportation infrastructure, traffic congestion, inadequate  
 115 access to transit, bicycle and pedestrian [access] facilities, and safety  
 116 issues impede the County’s land use and economic development  
 117 objectives.
- 118 (c) Transportation demand management, in conjunction with adequate  
 119 transportation facility review, planned capital improvement projects,  
 120 and parking and traffic control measures, will:
- 121 (1) help provide sufficient transportation capacity to achieve County  
 122 land use objectives and permit further economic development;
- 123 (2) reduce the demand for road capacity, [and] promote [traffic]  
 124 safety for all users of transportation infrastructure, and improve  
 125 access to transit, bicycle and pedestrian [access] facilities; and
- 126 (3) help reduce vehicular emissions, energy consumption, and noise  
 127 levels, and help address climate change.
- 128 (d) Improved traffic levels and air quality, and a reduction in ambient noise  
 129 levels will help create attractive and convenient places to live, work,  
 130 visit, and conduct business.
- 131 (e) Transportation demand management will equitably allocate  
 132 responsibility for reducing single-occupancy vehicle trips among  
 133 government, developers, employers, property owners, [[renters]]  
 134 tenants, and the public.
- 135 (f) Transportation demand management should be consistent with any  
 136 commuting goals set in the [Growth] Subdivision Staging Policy,  
 137 Master Plans, and Sector Plans. TDM should [and] foster coordinated  
 138 and comprehensive government, private industry, and public action to:

- 139 (1) make efficient use of existing transportation infrastructure;
- 140 (2) increase transportation capacity as measured by numbers of
- 141 people transported;
- 142 [(2)] (3) reduce existing and future levels of traffic congestion by
- 143 moving more people in fewer vehicles;
- 144 [(3)] (4) reduce air and noise pollution, and address climate change;
- 145 and
- 146 [(4)] (5) promote traffic safety together with transit, [and]
- 147 pedestrian and bicycle safety and access for all users.
- 148 (g) Transportation demand management will substantially advance public
- 149 policy objectives. Adoption of this Article is in the best interest of the
- 150 public health, safety, and general welfare of the County.

151 **42A-23. Districts; authority of the Department and Planning Board.**

- 152 (a) The County Council by resolution may create a transportation
- 153 management district [in] (TMD) [[in a policy area where]] in Red,
- 154 Orange, or Yellow Policy Areas as defined in the Subdivision Staging
- 155 Policy [[requires transportation review]]. A district may be formed
- 156 from all, or portions of, one or more [[Subdivision Staging]] Policy
- 157 areas, even if they are not contiguous. [:
- 158 (1) a Metro station policy area, which may include adjacent areas
- 159 served by the same transportation network; or
- 160 (2) an area where transportation review applies under the Growth
- 161 Policy.]
- 162 (b) The Department may take actions necessary to achieve effective
- 163 transportation demand management in each [[district]] District, on its
- 164 own or by contract with any employer, transportation management
- 165 organization, or other party, including:

- 166 (1) ~~[[regulating]]~~ controlling the use of or limiting public parking,  
167 by regulation adopted under method (2);
- 168 (2) prohibiting bundling of parking in new developments;
- 169 (3) monitoring and assessing traffic patterns and pedestrian access  
170 and safety;
- 171 ~~[(3)]~~ (4) adopting traffic and parking control measures;
- 172 ~~[(4)]~~ (5) providing transit, shuttles, circulator services, or other  
173 transportation services;
- 174 (6) implementing approved transportation-related capital projects;
- 175 ~~[(5)]~~ (7) promoting, ~~[[or]]~~ implementing, and improving existing  
176 transit and ridesharing incentives;
- 177 ~~[(6)]~~ (8) promoting regional cooperation between the County and  
178 other government agencies;
- 179 ~~[(7)]~~ (9) creating cooperative County-private sector programs to  
180 increase ridesharing and transit use; and
- 181 ~~[(8)]~~ (10) conducting surveys, studies, and statistical [analysis]  
182 analyses to determine the effectiveness of [traffic mitigation] and  
183 improvements needed to advance transportation demand  
184 management plans and employer and building owner efforts.
- 185 (c) In each ~~[[transportation management district]]~~ District, sole source  
186 contracts may be signed with, or funds granted to, one or more  
187 transportation management organizations to carry out transportation  
188 demand management programs that the Department could otherwise  
189 carry out, under Chapter 11B.
- 190 (d) The Department and the Planning Board may, in accordance with this  
191 Article and other applicable law, jointly or separately impose  
192 transportation demand management measures as conditions on the  
193 Board's approval of development in any ~~[[district]]~~ District.



194 (e) Each ~~[[district]]~~ District may have a Transportation Management  
 195 District Advisory Committee if the Executive by regulation decides a  
 196 Committee is necessary to carry out this Article or if the Council creates  
 197 a Committee by resolution. The Executive or Council may designate  
 198 any existing advisory body appointed by the Executive and confirmed  
 199 by the Council to serve as a Transportation Management District  
 200 Advisory Committee. The Executive must appoint, and the Council  
 201 must confirm, members of any Advisory Committee. The County must  
 202 not compensate members of an Advisory Committee for their services.  
 203 Advisory Committee members, not otherwise public employees as  
 204 defined in Chapter 19A, are not subject to the financial disclosure  
 205 provisions of that Chapter.

206 **42A-24. [Traffic mitigation plans] Transportation Demand Management**  
 207 **Plans for Employers.**

208 (a) Transportation Demand Management (TDM) ~~[[Plans]]~~ Plan for an  
 209 Individual Employer.

210 (1) The Director must require an employer subject to this Section to  
 211 submit a TDM Plan meeting the requirements of this Section [If  
 212 an employer is subject to this Section, and] ~~[[if the Council by~~  
 213 resolution or in the [Growth] Subdivision Staging Policy has  
 214 approved the use of traffic mitigation plans or TDM Plans in a  
 215 given]] ~~[[district]]~~ District[, the Director must notify the  
 216 employer by letter that the employer must submit a traffic  
 217 mitigation plan meeting the requirements of this Section].

218 ~~[[b]]~~ (2) Upon written request from the Director, an employer  
 219 ~~[[within a [[district]] District]]~~ must provide the Director with the  
 220 number of full-time and part-time employees working for that

221 organization [[at any]] by workplace [[within the district]] in  
222 each Policy Area or District.

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

227 (A) the employer is in a Red Policy Area under the  
228 Subdivision Staging Policy and has 25 or more employees  
229 reporting to or assigned to that workplace;

230 (B) the employer is in an Orange Policy Area under the  
231 Subdivision Staging Policy and has 100 or more  
232 employees reporting to or assigned to that workplace;

233 (C) the employer is in a Yellow Policy Area under the  
234 Subdivision Staging Policy and has 200 or more  
235 employees reporting to or assigned to that workplace; or

236 (D) the employer is in one of the following [[districts]]  
237 Districts and has 25 or more employees reporting to or  
238 assigned to a workplace:

239 Silver Spring TMD

240 Friendship Heights TMD

241 Bethesda TMD

242 North Bethesda TMD

243 Greater Shady Grove TMD

244 [[White Oak TMD]].

245 [(c)] (4) The [traffic mitigation plan should] TDM Plan must be  
246 consistent with and contribute to the achievement of any  
247 NADMS Goal or other commuting goals set in the [Growth]  
248 Subdivision Staging Policy, Master Plans, Sector Plans, and any

249 individual project-based goals or [[interim]] goals established in  
 250 the regulations implementing this Article. The TDM Plan must  
 251 include strategies required by regulation and other strategies  
 252 selected by the employer from those permitted by regulation or  
 253 proposed by the employer and approved by the Director. A  
 254 [traffic mitigation plan] TDM Plan may include an alternative  
 255 work hours program, carpool or vanpool incentives, subsidized  
 256 transit passes, preferential parking for carpools and vanpools,  
 257 parking management strategies, peak period or single-occupancy  
 258 vehicle parking charges, improved transit, bicycle and pedestrian  
 259 access and safety, telework, and other transportation demand  
 260 management measures approved by the Director.

261 [(d)] (5) Each employer must submit its [traffic mitigation plan]  
 262 TDM Plan within 90 days after receiving written notice from the  
 263 Director that it is required [under subsection (a)]. The Director  
 264 may extend an employer's time to file a [traffic mitigation plan]  
 265 TDM Plan for good cause.

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

268 (1) An employer may submit a consolidated [traffic mitigation plan]  
 269 TDM Plan with other employers in the same building or building  
 270 complex. An owner of a nonresidential building in a [[district]]  
 271 District may submit a consolidated [traffic mitigation plan] TDM  
 272 Plan on behalf of one or more employers in the building.

273 (2) A consolidated plan must be designed so that the action it  
 274 requires satisfies this Section for employers covered by the plan  
 275 and complies with the regulations implementing this Section.

276 [(f)] (c) Actions and assistance to be provided. The Director must:

- 277           (1) offer to help employers prepare TDM Plans;  
278           (2) decide if each proposed plan meets the requirements of this  
279                 Section; and  
280           (3) help an employer revise a plan that the Director determines does  
281                 not meet the requirements of this Section.
- 282       (d) Resubmission of TDM Plan. The Director may require an employer to  
283         resubmit a plan that the Director finds inadequate to achieve any Non-  
284         Auto Driver Mode Share goals or other commuting goals [[for that  
285         district]]. Once a plan has been approved, the Director must not require  
286         an employer to submit a revised plan that meets the requirements of this  
287         Section more than once every two years.
- 288       (e) Annual TDM Plan report. An employer must submit a report on  
289         strategies used to implement a TDM Plan, including progress achieved  
290         under that plan, to the transportation management organization and the  
291         Director on a schedule established by the Director.
- 292       (f) Transportation Demand Management Plan for the Montgomery County  
293         Government.
- 294           (1) The Director of the Office of Human Resources, after consulting  
295                 with the Director of Transportation, must submit a TDM Plan for  
296                 County employees to the Chief Administrative Officer with a  
297                 copy to the Council.
- 298           (2) The TDM Plan must include incentives, policies, or outreach  
299                 needed to increase the number of County employees commuting  
300                 to work through modes other than driving an automobile.
- 301       [(1) The Director may require an owner of a nonresidential building  
302         in a district to submit a traffic mitigation plan if:

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

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

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

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

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

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

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

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

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

329 [(i) The Director must:

- 330 (1) decide if each proposed plan meets the requirements of this  
 331 Section; and  
 332 (2) help the employer or owner revise a plan which does not meet  
 333 the requirements.]

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

341 **42A-25. [Traffic mitigation agreements] Transportation Demand**  
 342 **Management Plans for Existing Buildings.**

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

349 [(b) A traffic mitigation agreement must specify transportation demand  
 350 management measures that the applicant or a responsible party must  
 351 carry out. The measures must be calculated to ensure that public  
 352 transportation will be adequate to meet commuting goals set in the  
 353 Annual Growth Policy.]

354 [(c) A traffic mitigation agreement may require:  
 355 (1) naming a transportation coordinator;  
 356 (2) limits on parking spaces;  
 357 (3) peak period or single-occupancy vehicle parking charges;

- 358 (4) preferential parking for carpools and vanpools;
- 359 (5) subsidies for employees not using single-occupancy vehicles;
- 360 (6) financial or other participation in building or operating on- or off-
- 361 site transportation facilities or systems;
- 362 (7) providing space on a periodic basis for marketing and
- 363 promotional activities of the district;
- 364 (8) designating permanent areas in prominent locations to display
- 365 information on commuting options; or
- 366 (9) other transportation demand management measures.]

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

- 368 (1) agreed to by the applicant, the Department, and the Planning
- 369 Board;
- 370 (2) made an express condition of any approval for subdivision under
- 371 Chapter 50 or optional method development under Chapter 59;
- 372 (3) subject to all other review and approval requirements of Chapter
- 373 50 and Chapter 59; and
- 374 (4) recorded in the County's land records.]

375 [(e) A traffic mitigation agreement may:

- 376 (1) require adequate financial security, including bonds, letters of
- 377 credit, or similar guarantees;
- 378 (2) bind future tenants of the development; and
- 379 (3) specify liquidated damages, specific performance, or other
- 380 contractual remedies, as appropriate.]

381 [(f) The Department must enforce the terms of each traffic mitigation

382 agreement. This does not limit the Planning Board's authority to revoke

383 or otherwise enforce any approvals for subdivision under Chapter 50 or

384 optional method development under Chapter 59.]

385           (a)    Transportation Demand Management (TDM) Plans for Existing Non-  
 386           residential Buildings.

387           (1)    The Director may require an owner of a nonresidential building  
 388           in a [[district]] District to submit a TDM Plan if:

389           (A)    the Director finds that a plan is necessary to achieve the  
 390           purpose of this Article; and

391           (B)    the building is not subject to either a traffic mitigation  
 392           agreement currently in effect or a Project-based TDM Plan  
 393           under Section 42A-26.

394           (2)    If an existing non-residential building is subject to this Section,  
 395           the Director must notify the building owner that a TDM plan  
 396           meeting the requirements of this Section must be submitted. As  
 397           specified in the notice, the owner's plan may cover all or some  
 398           employers in the building. A plan submitted under this  
 399           subsection may be in addition to one an individual employer  
 400           must submit.

401           (3)    After receiving notice under this Section, an owner must submit  
 402           a TDM Plan meeting the requirements established in the  
 403           Executive Regulations for approval by the Director.

404           (b)    Transportation Demand Management (TDM) Plans for Existing Multi-  
 405           Unit Residential Buildings.

406           (1)    The Director may require an owner of a residential building or  
 407           complex with at least 100 dwelling units in a [[district]] District,  
 408           including a common ownership community as defined in  
 409           Chapter 10B, to submit a TDM Plan if:

410           (A)    the Director finds that a plan is necessary to achieve the  
 411           purpose of this Article; and



412                    (B) the building is not subject to either a traffic mitigation  
 413                    agreement currently in effect or to a Project-based TDM  
 414                    Plan under Section 42A-26.

415                    (2) If an existing multi-unit residential building is subject to this  
 416                    Section, the Director must notify the building owner(s) that a  
 417                    TDM Plan meeting the requirements of this Section must be  
 418                    submitted.

419                    (3) After receiving notice under this Section, the owner(s) must  
 420                    submit a TDM Plan that meets the requirements established in  
 421                    the Executive Regulations for approval by the Director.

422                    (c) *Actions and assistance to be provided.* The Director must:

423                    (1) offer to help building owners prepare TDM Plans;

424                    (2) decide if each proposed plan meets the requirements of this  
 425                    Section; and

426                    (3) help the building owner(s) revise a plan which does not meet the  
 427                    requirements.

428                    (d) *Resubmission of TDM Plan.* The Director may require a building  
 429                    owner to resubmit a plan that the Director finds inadequate to achieve  
 430                    any Non-Auto Driver Mode Share goals or other commuting goals [[for  
 431                    that district]]. Once a plan has been approved, the Director must not  
 432                    require a building owner to submit a revised plan that meets the  
 433                    requirements of this Section more than once every two years.

434                    (e) *Annual TDM Plan report.* A building owner must submit a report on  
 435                    strategies used to implement a TDM Plan, and progress on achievement  
 436                    of goals under that plan, to the transportation management organization  
 437                    and the Department based on a schedule established by the Director.

438                    **42A-26. [Annual survey] Transportation Demand Management Plans for New**  
 439                    **Development Projects (Project-based TDM Plans).**

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

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

445 (1) create an accurate data base of employee commuting patterns in  
 446 the district; and

447 (2) monitor progress toward reaching any commuting goals set in the  
 448 Growth Policy.]

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

453 [(d) An employer must make a good faith effort to generate survey  
 454 responses from employees with the objective of achieving at least an  
 455 80 percent compliance rate.]

456 (a) Applicability. This Section applies to any owner or applicant for a new  
 457 development or construction project that submits an application for a  
 458 proposed subdivision or optional method development, site plan,  
 459 conditional use or building permit in a [[district]] District, but excluding  
 460 any project consisting solely of single family detached housing,  
 461 townhouses, or a mixture of both. All such applicants must obtain  
 462 approval from the Department for a Project-based Transportation  
 463 Demand Management (TDM) Plan. This approval must be obtained  
 464 prior to [[Planning Board approval of the application, or prior to  
 465 Department of Permitting Services approval for projects not requiring  
 466 Planning Board action]] the issuance of any building permit by the

467 Department of Permitting Services. Projects subject to this Section  
 468 include developments:

- 469 (1) in a Red, Orange or Yellow Subdivision Staging Policy Area and  
 470 larger than the minimum sizes shown in subsection (b);
- 471 (2) that do not have a fully-executed traffic mitigation agreement in  
 472 effect; and
- 473 (3) where the Department decides, under standards adopted by the  
 474 Council for the adequacy of transportation, including Non-Auto  
 475 Driver Mode Share goals and other commuting goals adopted in  
 476 Master Plans, Sector Plans and the Subdivision Staging Policy,  
 477 that more transportation facilities or transportation demand  
 478 management measures are necessary to meet the County’s  
 479 commuting goals.

480 (b) Levels of Project-based TDM Plans. An owner or applicant for a new  
 481 development or construction project may be required to submit a Level  
 482 1 TDM Basic Plan, a Level 2 TDM Action Plan, or a Level 3 TDM  
 483 Results Plan based on the size and location of the project as follows:

- 484 (1) An owner or applicant for a project located in a Red Policy Area  
 485 under the Subdivision Staging Policy must:
  - 486 (A) submit a Level 1 TDM Basic Plan for a project with [[at  
 487 least 25,000 gross square feet, but]] less than or equal to  
 488 [[100,000]] 40,000 gross square feet; and
  - 489 (B) submit a Level 3 TDM Results Plan for a project with  
 490 more than [[100,000]] 40,000 gross square feet;
- 491 (2) An owner or applicant for a project located in an Orange Policy  
 492 Area under the Subdivision Staging Policy must:

- 493                    (A)    submit a Level 1 TDM Basic Plan for a project with at  
 494                                    least ~~[[50,000]] 40,000 gross square feet, but less than or~~  
 495                                    equal to ~~[[100,000]] 80,000 gross square feet;~~
- 496                    (B)    submit a Level 2 TDM Action Plan for a project with more  
 497                                    than ~~[[100,000]] 80,000 gross square feet, but less than or~~  
 498                                    equal to ~~[[200,000]] 160,000 gross square feet; and~~
- 499                    (C)    submit a Level 3 TDM Results Plan for a project with  
 500                                    more than ~~[[200,000]] 160,000 gross square feet;~~
- 501                    (3)    An owner or applicant for a project located in a Yellow Policy  
 502                                    Area under the Subdivision Staging Policy must:
- 503                                    (A)    submit a Level 1 TDM Basic Plan for a project with at  
 504                                    least ~~[[75,000]] 60,000 gross square feet, but less than or~~  
 505                                    equal to 150,000 gross square feet; and
- 506                                    (B)    submit a Level 2 TDM Action Plan for a project with more  
 507                                    than 150,000 gross square feet.
- 508                    (4)    If an adopted Master Plan or Sector Plan requires a higher Level  
 509                                    of Project-based TDM Plan, those Master Plan or Sector Plan  
 510                                    requirements override those described in paragraphs (1), (2), or  
 511                                    (3).
- 512                    (5)    An owner or applicant for a project with a gross square feet size  
 513                                    disproportionate to its impact on traffic (e.g., large floor area  
 514                                    warehouses with lower impacts; small floor area food or  
 515                                    beverage establishments with higher impacts) may be required to  
 516                                    adhere to a Project-based TDM Plan Level that is either lower or  
 517                                    higher than otherwise required by its size and location, in  
 518                                    accordance with the development approval and consistent with  
 519                                    the Executive Regulation implementing this Article.

520 (c) Components of Project-based TDM Plans. The components of each  
521 Project-based TDM Plan Level are described in detail in the Executive  
522 Regulation adopted to implement these provisions. Each plan must  
523 include the components listed below and in the Executive Regulation.  
524 The plan must be submitted by the owner or applicant and approved by  
525 the Department. Any owner or applicant may choose to comply with  
526 the requirements for a higher Level of Project-based TDM Plan.

527 (1) Level One: A Project-based TDM Basic Plan is not required to  
528 include specific project-based strategies other than providing  
529 information, but must implement County-led strategies at the  
530 Project and must include:

531 (A) Appointment of a Transportation Coordinator and  
532 Commitment to Cooperate with the Department's  
533 Programs. Each owner of a project must designate an  
534 individual responsible to assist and cooperate with the  
535 Department's efforts to achieve the Non-Auto Driver  
536 Mode Share goals and other traffic mitigation and  
537 commuting goals [[established for that area]]. This  
538 assistance must include distribution of information on  
539 commuting options to the on-site population; coordinating  
540 with the Department to conduct on-site commuting-related  
541 outreach events; ensuring participation in commuter  
542 surveys by the on-site population; attending occasional  
543 training sessions for Transportation Coordinators; and  
544 other duties included in the Executive Regulation.

545 (B) Notification. Each owner of a project is required to notify  
546 the Department in writing within 30 days of receipt of final  
547 Use and Occupancy certificate from the Department of

548 Permitting Services of the designated Coordinator's  
549 contact information; and within 30 days of any subsequent  
550 change in that designation or contact information.

551 (C) Access to the Project. Each owner must provide space on-  
552 site by prior arrangement with the Department to allow the  
553 Department to promote TDM, including participation in  
554 commuter surveys. Such space need not be exclusively  
555 for this purpose but must be suitable for this purpose, as  
556 determined by the Department.

557 (D) TDM Information. Displays of TDM-related information  
558 must be placed in a location visible to employees,  
559 residents and other project users.

560 (2) Level Two: A Project-based TDM Action Plan requires a  
561 commitment to take specific actions by the owner or applicant to  
562 achieve a base Non-Auto Driver Mode Share that is 5% higher  
563 than the District's NADMS goal [[specific actions]] to help the  
564 County achieve district-wide commuting goals. The Director  
565 may establish a project NADMS goal that is up to 5% higher or  
566 5% lower than the base NADMS goal in Red Policy Areas and  
567 up to 10% higher or 10% lower than the base NADMS goal in  
568 Orange and Yellow Policy Areas. The plan must include project-  
569 based strategies and demonstrate over time that the adopted  
570 strategies are contributing toward achievement of the  
571 [[district's]] commuting goals, in compliance with the Executive  
572 [[Regulations]] Regulation. A project must be considered to be  
573 contributing toward achievement of the district's commuting  
574 goals if the [[biannual]] biennial surveys of building occupants  
575 demonstrate increased on-site Non-Auto Driver Mode Share, or

576 a measurable improvement in an alternative Department-  
577 approved metric, if applicable, in proportion to the level  
578 necessary to achieve the project's goal by the date established in  
579 the project's TDM plan. Once the NADMS goal or other  
580 commuting goals have been achieved, the owner must maintain  
581 the level necessary to continue achieving the goals. A Project-  
582 based TDM Action Plan must include the Project-based TDM  
583 Basic Plan components and the following:

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

592 (B) *Commitment to Fund and Implement the Plan.* The owner  
593 or applicant must commit to fund and implement the  
594 Project-based TDM Plan at an adequate level to contribute  
595 toward achievement of the [[district's]] commuting goals.

596 (C) *Self-Monitoring.* The owner or applicant must conduct  
597 self-monitoring, consistent with Department  
598 requirements, to determine if the Project-based TDM Plan  
599 is contributing toward achievement of the [[district's]]  
600 District's goals. The self-monitoring must be conducted  
601 in addition to any monitoring conducted by the  
602 Department.

- 603                   (D) Biennial Report. Progress reports must be provided to the  
604                   County in alternating years, in a format consistent with  
605                   Department requirements.
- 606                   (E) Addition and/or Substitution of Strategies. If the strategies  
607                   initially selected [[from the “Sample Menu of TDM  
608                   Strategies”]] by the owner or applicant do not result in the  
609                   plan contributing toward achievement of [[district]]  
610                   District goals by four years after Date of Final Occupancy,  
611                   the Department may require revisions in the project’s plan  
612                   using [[the “Sample Menu of TDM Strategies” or]] other  
613                   strategies proposed by the owner or applicant. The owner  
614                   or applicant must agree to implement these revised  
615                   strategies if required by the Department at a level  
616                   consistent with the owner’s commitment to fund and  
617                   implement the plan. This process may be repeated until  
618                   the project demonstrates it is contributing toward  
619                   achievement of district goals, consistent with the  
620                   Executive Regulations. Once the NADMS goal or other  
621                   commuting goals have been achieved, the owner must  
622                   maintain the level necessary to continue achieving the  
623                   goals.
- 624                   (F) Additional Funding Commitment. If the project does not  
625                   contribute toward achievement of [[district]] the  
626                   commuting goals by six years after Date of Final  
627                   Occupancy, the Department may require increased  
628                   funding by the owner for existing or new TDM strategies  
629                   to be implemented at the project. The owner must commit  
630                   additional funds to supplement on-site strategies if



631 required by the Department. The amount of the additional  
632 funding must be as established in the Executive  
633 Regulation.

634 (G) [[Rewards]] Performance Incentives. The owner may be  
635 eligible for annual [[rewards]] performance incentives  
636 established by the Department for continued contribution  
637 over multiple years toward achievement of [[district]]  
638 commuting goals, including reductions in TDM fees or  
639 other financial benefits, as established in the Executive  
640 Regulation.

641 (3) Level Three: A Project-based TDM Results Plan requires a  
642 commitment by the owner or applicant to achieve [[certain]] a  
643 base Non-Auto Driver Mode Share that is 5% higher than the  
644 District's goal as well as [[and]] related commuting goals at that  
645 project. The plan must include project-based strategies and  
646 demonstrate that the plan is achieving the goals established for  
647 the project. [[Those goals may be equal to, higher or lower than  
648 the [[district's]] District's goals based on project-specific  
649 parameters, consistent with the Executive Regulation.]] The  
650 Director may establish a project NADMS goal that is up to 5%  
651 higher or 5% lower than the base NADMS goal in Red Policy  
652 Areas and up to 10% higher or 10% lower than the base NADMS  
653 goal in Orange and Yellow Policy Areas. The plan must be  
654 submitted by the owner or applicant and approved by the  
655 Department. A Project-based TDM Results Plan must include  
656 the Project-based TDM Action Plan components and the  
657 following:

658 (A) Independent Monitoring. Monitoring by a consultant  
659 approved by the Department, to determine whether the  
660 project is meeting its goals. This monitoring must be done  
661 on a regular basis consistent with the Executive  
662 Regulations.

663 (B) Addition and/or Substitution of Strategies. If the strategies  
664 initially selected by the owner or applicant do not result in  
665 the project achieving its goals by six years after Date of  
666 Final Occupancy, the Department may require revisions in  
667 the project's plan using [[the "Sample Menu of TDM  
668 Strategies" or]] other strategies proposed by the owner or  
669 applicant. The owner or applicant must agree to  
670 implement these revised strategies if required by the  
671 Department at a level consistent with the owner's  
672 commitment to fund and implement the plan. This process  
673 may be repeated until the project demonstrates it is  
674 achieving its goals, in compliance with the Executive  
675 [[Regulations]] Regulation.

676 (C) Additional Funding Commitment. If the strategies  
677 selected by the owner or applicant do not result in  
678 achievement of the project goals by six years after Date of  
679 Final Occupancy, the Department may require increased  
680 funding by the owner for existing or new TDM strategies  
681 to be implemented at the project. Additional increases in  
682 funding may be required if the goals have still not been  
683 achieved by eight years after Date of Final Occupancy.  
684 The owner must commit additional funds to supplement  
685 on-site strategies if required by the Department. The

686 amount of the additional funding must be as established in  
 687 the Executive Regulation.

688 (D) [[Rewards]] Performance Incentives. The owner may be  
 689 eligible for annual [[rewards]] performance incentives  
 690 established by the Department for continued achievement  
 691 of project goals over multiple years, including reductions  
 692 in TDM fees or other financial benefits, as established by  
 693 the Executive Regulation.

694 (d) Process. A Project-based TDM Plan must be:

695 (1) proposed by the owner or applicant and approved by the  
 696 Department;

697 (2) made an express condition of any approval for:

698 (A) subdivision or another plan approval under Chapter 50;

699 (B) site plan or another plan approval under Chapter 59; or

700 (C) building permit for a recorded lot;

701 (3) subject to all other review and approval requirements of Chapter  
 702 50 and Chapter 59, with approval of the Department required for  
 703 any revisions to an approved TDM Program; and

704 (4) recorded in the County's land records.

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

708 (e) Enforcement. The Director must enforce the terms of each Project-  
 709 based TDM Plan. This does not limit the Planning Board's authority to  
 710 revoke or otherwise enforce any approvals under Chapter 50 or Chapter  
 711 59. [[Where a Project-based TDM Plan is a condition of subdivision,  
 712 optional method, site plan, or conditional use, the Planning Board must  
 713 confirm that TDM Plan has been approved by the Director before

714 issuing final approval.]] Where a Project-based TDM Plan is a  
 715 condition of building permit approval, the Department of Permitting  
 716 Services must confirm that the TDM Plan has been approved by the  
 717 Director prior to issuing a building permit.

718 **42A-27. [Executive report] Traffic Mitigation Agreements.**

719 [(a) By December 1 of each even-numbered year, the Director must submit  
 720 to the appropriate Advisory Committee and the Planning Board a report  
 721 on transportation demand management in each district. The report  
 722 should include:

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

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

737 [(c) If any commuting goals set in the Growth Policy are not met 4 years  
 738 after a district is created, the Director must recommend corrective  
 739 action to the Executive. This action may include mandatory mitigation  
 740 measures. If the Executive agrees that such action is necessary, the

741 Executive should propose appropriate legislation or adopt appropriate  
742 regulations as authorized by law.]

743 Enforcement. The Department must enforce the terms of each traffic  
744 mitigation agreement. This does not limit the Planning Board's authority to  
745 revoke or otherwise enforce any approvals for subdivision under Chapter 50  
746 or optional method development under Chapter 59.

747 **42A-28. [Regulations] Commuter survey and related data collection.**

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

750 (a) The Director, after consulting the appropriate Advisory Committee,  
751 must conduct a commuter survey, or obtain through other available  
752 mechanisms, data on commuting by employees and residents within a  
753 defined area. The data must be obtained on a schedule determined by  
754 the Director.

755 (b) The Director, in consultation with the appropriate Advisory Committee,  
756 must prepare a survey or other data collection mechanism as necessary  
757 to generate information to:

758 (1) create an accurate data base of employee and resident commuting  
759 patterns [[in the district]]; and

760 (2) monitor progress toward reaching any commuting goals set in the  
761 Subdivision Staging Policy, Master Plans or Sector Plans, as  
762 implemented by the Department through Executive Regulations  
763 or other adopted policies and procedures.

764 (c) The Department must distribute the survey to employers; building  
765 owners or managers; tenants, condominium and homeowners  
766 associations; Transportation Coordinators, and others required to  
767 conduct the survey or to participate in other ways in the data collection  
768 process, based on a schedule the Director sets. The Department may

769 also collect commuting data through other available mechanisms in  
 770 addition to or in place of the commuter survey.

771 (d) Each notified employer, building owner or manager, Transportation  
 772 Coordinator or other entity must distribute, collect, and return the  
 773 completed surveys, or otherwise provide the required data through  
 774 other Department-approved mechanisms. Data collected must be  
 775 provided to the transportation management organization and the  
 776 Department within the time period established by the Department.

777 (e) Any entity required to participate in the commuting survey, or to  
 778 participate in data collection through another mechanism, must make a  
 779 good faith effort to generate survey responses or other data from their  
 780 target population with the objective of achieving at least a [[60]] 40  
 781 percent compliance rate for an entity with a target population of either  
 782 100 or more employees or 100 or more residents and 50 percent for an  
 783 entity with a target population of less than 100 employees or less than  
 784 100 residents. The Director may require a smaller or larger response  
 785 rate from a given worksite, building, or project based on requirements  
 786 for statistical validity.

787 **42A-29. [Transportation Management Fee] Executive report on [[TMDs]]**  
 788 **Transportation Demand Management.**

789 [(a) *Authority.*

- 790 (1) The Council may by resolution adopted under Section 2-57A set  
 791 the transportation management fee that the Department must  
 792 annually charge, under the Alternative Review Procedures in the  
 793 Growth Policy, an applicant for subdivision or optional method  
 794 development approval in a district and each successor in interest.
- 795 (2) If the resolution creating a district authorizes the Department to  
 796 charge a transportation management fee to any of the following

797 persons, the Council may, by resolution adopted under Section  
 798 2-57A, set the fee that the Department must charge:

799 (A) an applicant for subdivision or optional method  
 800 development in the district who is not subject to a  
 801 transportation management fee under the Alternative  
 802 Review Procedures in the Growth Policy and each  
 803 successor in interest; and

804 (B) an owner of existing commercial and multi-unit residential  
 805 property in the district.]

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

809 (1) administering the district, including review and monitoring of  
 810 traffic mitigation plans under Section 42A-24 and traffic  
 811 mitigation agreements under Section 42A-25; and

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

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

817 (1) portion of the cost of administering the district, including the  
 818 review and monitoring of traffic mitigation plans under Section  
 819 42A-24 and traffic mitigation agreements under Section 42A-25,  
 820 reasonably attributable to the transportation effects of the  
 821 development or property subject to the fee; and

822 (2) portion of the cost of any program implemented under Section  
 823 42A-23(b), including any vehicle or other equipment necessary  
 824 to carry out the program, reasonably attributable to the

825 transportation effects of the development or property subject to  
 826 the fee.]

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

- 828 (1) the gross floor area, the maximum or actual number of  
 829 employees, or the average number of customers, visitors, or  
 830 patients, in a nonresidential building;
- 831 (2) the number of dwelling units, or the gross floor area, in a  
 832 residential building;
- 833 (3) the number of parking spaces associated with a building; or
- 834 (4) any other measurement reasonably related to transportation use  
 835 by occupants of, employees located in, or visitors to a particular  
 836 development or property.]

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

840 (a) By December 1 of each even-numbered year, the Director must submit  
 841 to the appropriate Advisory Committee and the Planning Board a report  
 842 on transportation demand management in each operating [[district]]  
 843 District. The report should include the following information to the  
 844 extent feasible within the constraints of available resources:

- 845 (1) employee commuting patterns by employer, building or project;  
 846 residential commuting patterns by building or project; other  
 847 commuting or travel patterns as appropriate;
- 848 (2) auto occupancy rates by employer, residential unit or other  
 849 appropriate measures;
- 850 (3) level of service measurements for each major intersection in the  
 851 policy area and selected critical intersections outside the area;
- 852 (4) parking supply and demand;



- 853                   (5)    status of road or intersection improvements, signal automation,  
 854                               bicycle and pedestrian access and safety, and other traffic  
 855                               modifications in or near the district;
- 856                   (6)    transit use and availability;
- 857                   (7)    carpool and vanpool use;
- 858                   (8)    bicycle and bikeshare use;
- 859                   (9)    use of other transportation modes relevant to analyzing  
 860                               achievement of commuting goals; [[and]]
- 861                   (10) the number of electric vehicle charging stations in the area; and
- 862                   (11) the source and use of any funds received under this Article.
- 863           (b)    By March 1 of each odd-numbered year, the Executive must forward  
 864                               [[each report]] required reports to the Council. The Executive must  
 865                               note any area of disagreement between the Director and an Advisory  
 866                               Committee.
- 867           (c)    If any commuting goals set in the Subdivision Staging Policy are not  
 868                               met eight years after a district is created or by June 30, [[2027]] 2028,  
 869                               whichever is later, the Director must recommend corrective action to  
 870                               the Executive. This action may include additional mitigation measures.  
 871                               If the Executive agrees that such action is necessary, the Executive  
 872                               should propose appropriate legislation or adopt appropriate regulations  
 873                               as authorized by law.

874 **42A-30. [Enforcement] Regulations.**

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

880 not comply with the agreement within 30 days after notice has committed a class A  
881 violation.]

882 The Executive must adopt regulations under method (2) to implement this  
883 Article. The regulations may implement the requirements of this Article in phases.

884 **42A-31. Transportation Demand Management Fee.**

885 (a) Authority.

886 (1) The Council may, by resolution adopted under Section 2-57A,  
887 set the transportation demand management fee that the  
888 Department must annually charge an applicant, and each  
889 successor in interest, for subdivision, optional method  
890 development approval, or a building permit.

891 (2) The Department is authorized to charge a transportation demand  
892 management fee adopted by the Council to:

893 (A) an applicant for subdivision or optional method approval,  
894 site plan approval or a building permit in a [[district]]  
895 District and

896 (B) an owner of existing commercial, industrial or multi-unit  
897 residential developed property in the [[district]] District,  
898 including a property where the principal use is a  
899 commercial parking facility.

900 (b) Use of revenue. The revenue generated by a transportation demand  
901 management fee must be used in the [[transportation management  
902 district]] District in which the development or property subject to the  
903 fee is located to cover the cost of:

904 (1) administering the [[district]] District and TDM strategies, and  
905 coordinating with projects and occupants (including employees  
906 and residents) within that [[district]] District or Policy Area,  
907 including review and monitoring of TDM Plans; and

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

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

914                   (1)   portion of the cost of administering TDM in the [[district]]  
 915                   District, including the review and monitoring of TDM Plans,  
 916                   reasonably attributable to the transportation effects of the  
 917                   development project or property subject to the fee; and

918                   (2)   portion of the cost of any program implemented under Section  
 919                   42A-23(b), including any vehicle or other equipment necessary  
 920                   to carry out the program, reasonably attributable to the  
 921                   transportation effects of the development project or property  
 922                   subject to the fee.

923           (d)   Method. A transportation demand management fee may be assessed  
 924           on:

925                   (1)   the gross square feet, the gross floor area, the maximum or actual  
 926                   number of employees, or the average number of customers,  
 927                   visitors, or patients, in a nonresidential building;

928                   (2)   the number of dwelling units, the gross square feet or the gross  
 929                   floor area, in a residential building;

930                   (3)   the number of parking spaces associated with a building; or

931                   (4)   any other measurement reasonably related to transportation use  
 932                   by occupants of, employees located in, or visitors to a particular  
 933                   development or property, including property where the principal  
 934                   use is as a commercial parking facility.

935           (e) Variation. The transportation demand management fee and the basis  
 936           on which it is assessed may vary within each [[district]] District,  
 937           between one [[district]] District and another, and from one building  
 938           category or land use category to another.

939 **42A-32. Enforcement.**

940           (a) The Department must enforce this Article. An employer, owner,  
 941           building or project manager or other responsible party subject to  
 942           Section 42A-24 or 42A-25 that does not submit a TDM Plan or required  
 943           report, comply with required provisions of a plan, or provide survey  
 944           data consistent with the requirements of Section 42A-28 within 30 days  
 945           after a second notice has committed a class C violation.

946           (b) A party to a Project-based Transportation Demand Management Plan  
 947           under Section 42A-26 who does not comply with the approved plan  
 948           within 30 days after notice of noncompliance has committed a class A  
 949           violation.

950           (c) Any party [[required to]] that does not submit required reports on  
 951           numbers of employees, transportation demand management plans and  
 952           strategies, Non-Auto Driver Mode Share, progress toward goals, survey  
 953           results or other TDM-related provisions or measurements on a timely  
 954           basis has committed a class C violation.

955           (d) Any party who falsifies any required data or reports has committed a  
 956           class A violation.

957 **Sec. 2. Transition.**

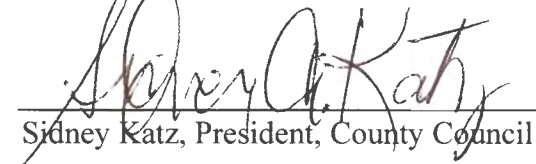
958           (a) Existing agreements. All traffic mitigation agreements executed under  
 959           this Chapter before this Act takes effect that have not expired or  
 960           terminated, remain in effect.

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

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

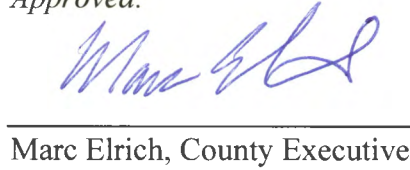
- 969 (1) a traffic mitigation agreement has not yet been fully executed;
- 970 (2) the building or project approved is larger than the minimum sizes  
 971 designated for each Subdivision Staging Policy Area group in  
 972 Section 42A-26; and
- 973 (3) construction has not begun.

Approved:

  
Sidney Katz, President, County Council

12/3/19  
Date

Approved:

  
Marc Elrich, County Executive

12/12/19  
Date

*This is a correct copy of Council action.*

  
Selena Mendy Singleton, Esq., Clerk of the Council

12/13/19  
Date