

Bill No. 32-02
Concerning: Transportation Management
Districts - Amendments
Revised: Nov. 21, 2002 Draft No. 3
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Ch. 34, Laws of Mont. Co. 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Silverman and Councilmembers Praisner and Leggett

AN ACT to:

- (1) clarify the law related to transportation management districts;
- (2) eliminate the requirement that a transportation management district be located in a Metro station policy area;
- (3) require an employer that employs a certain number of employees in a transportation management district to submit an annual survey on traffic mitigation efforts; and
- (4) generally amend County law regarding transportation demand management.

By repealing

Montgomery County Code
Chapter 42A, Ridesharing and Transportation Management
Sections 42A-10 through 42A-20

By amending

Chapter 42A, Ridesharing and Transportation Management
Sections 42A-20A through 42A-30

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. Chapter 42A is amended as follows:**

2 **Article II. Transportation [System] Demand Management.**

3 **[42A-10. Application.**

4 This article applies in the Silver Spring central business district as defined in section 59-C-
5 6.12(c).]

6 **[42A-11. Definitions.**

7 In this Article, unless the context indicates otherwise:

8 (a) Alternative work hours program means any system for shifting the workday of an
9 employee so that the workday starts or ends outside of the peak period, including:

10 (1) Compressed workweeks;

11 (2) Staggered work hours involving a shift in the set work hours of all
12 employees at the workplace; or

13 (3) Flexible work hours involving individually determined work hours within
14 guidelines established by the employer.

15 (b) Annual growth policy means the most recently adopted annual growth policy under
16 Section 33A-13.

17 (c) Carpool means a motor vehicle occupied by two (2) or more employees traveling
18 together.

19 (d) Commute means a home-to-work or work-to-home trip.

20 (e) Department means the Department of Public Works and Transportation.

21 (f) Director means the Director of the Department of Public Works and Transportation.

22 (g) District means a transportation management district established in the Silver Spring
23 central business district as defined in Section 59-C-6.12(c).

- 24 (h) Employee means any person hired by an employer, including part-time and seasonal
 25 workers.
- 26 (i) Employer means any public or private employer, including the County, having a
 27 permanent place of business in the district. The maximum number of employees on
 28 the largest shift determines the size of the employer. "Employer" does not include:
- 29 (1) Contractors with no permanent place of business in the district;
 30 (2) Other businesses with no permanent workplace or location; or
 31 (3) Government agencies not required by law to follow county regulations.
- 32 (j) Peak period means the hours from 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 7:00 p.m.
 33 during workdays.
- 34 (k) Planning board means the Montgomery County Planning Board of the Maryland-
 35 National Capital Park and Planning Commission.
- 36 (l) Single-occupancy vehicle means a motor vehicle occupied by one (1) employee for
 37 commuting purposes, excluding two-wheeled vehicles.
- 38 (m) Transportation system management means any method of reducing demand for road
 39 capacity during the peak period, including alternative work hours programs,
 40 carpools, vanpools, subsidized transit passes, preferential parking, and peak period
 41 parking charges.
- 42 (n) Vanpool means a van occupied by at least eight (8) employees traveling together.
- 43 (o) Workplace means the place of employment, base of operation, or predominant
 44 location of an employee.]

45 **[42A-12. Findings, general intent.**

- 46 (a) The district is experiencing significant new economic activity and interest in further
47 revitalization.
- 48 (b) Limited transportation infrastructure in the district and vicinity and related traffic
49 congestion, pedestrian access, and safety concerns are primary constraining factors
50 in achieving county land-use and economic development objectives.
- 51 (c) Transportation system management is undertaken in conjunction with adequate
52 transportation facility review, planned capital improvement projects, and parking
53 and traffic control measures to provide sufficient transportation capacity to achieve
54 county land use objectives and further permit economic development in the district.
- 55 (d) Transportation system management will reduce the demand for road capacity and
56 promote traffic safety and pedestrian access in the district and vicinity.
- 57 (e) Transportation system management will also help reduce vehicular emissions,
58 energy consumption, and noise levels. The resulting improved traffic levels of
59 service, air quality, and ambient noise levels will contribute to making the district
60 and vicinity an attractive and convenient place to live, work, visit, and do business.
- 61 (f) Transportation system management will equitably allocate responsibility for
62 reducing single-occupancy vehicle trips among government, developers, employers,
63 nonresidential property owners, and the public.
- 64 (g) The establishment of transportation system management in the district in accordance
65 with this article substantially advances these important governmental objectives.
66 Adoption of this article is in the best interests of the public health, safety, and
67 general welfare, both within the district and the county.]

68 **[42A-13. Creation; purpose; authority of the department and planning board.**

- 69 (a) Transportation system management is established in the district to foster coordinated
70 and comprehensive transportation system management by government, new
71 developers, property owners and employers in order to:
- 72 (1) Increase transportation capacity;
 - 73 (2) Reduce existing and future levels of traffic congestion;
 - 74 (3) Reduce air and noise pollution; and
 - 75 (4) Promote traffic safety and pedestrian access.
- 76 (b) Transportation system management in the district must be implemented in a manner
77 consistent with the commuting goals specified in the annual growth policy.
- 78 (c) (1) The department may take action necessary to achieve transportation system
79 management in the district in accordance with this article and other
80 applicable law, including:
- 81 a. Constrained parking;
 - 82 b. Monitoring and assessment of changing traffic patterns and
83 pedestrian access and safety in the district and vicinity;
 - 84 c. Establishment of traffic and parking control measures in the district
85 and vicinity;
 - 86 d. Provision of approved transportation-related capital projects in the
87 district and vicinity;
 - 88 e. Promotion, development, and implementation of transit and r
89 ridesharing incentive programs;
 - 90 f. Promotion of regional cooperation between the county and other
91 governmental agencies; and

92 g. Establishment of cooperative county and private sector programs to
93 increase ridesharing and transit usage.

94 (2) The department and the planning board may, in accordance with this article
95 and other applicable law, impose reasonable transportation system
96 management measures as conditions on development.]

97 **[42A-14. Advisory committee.**

98 (a) Creation. The district must have a Silver Spring Transportation System Management
99 Advisory Committee. The members of the advisory committee are appointed by the
100 county executive and confirmed by the county council.

101 (b) Composition.

102 (1) The advisory committee has twelve (12) voting members and four (4)
103 nonvoting members. The county executive should appoint the voting
104 members so that:

105 a. Three (3) members are nominated by the Silver Spring Chamber of
106 Commerce;

107 b. Three (3) members are nominated by the Silver Spring Advisory
108 Board of which:

109 i. One (1) is a resident of the district;

110 ii. One (1) is a resident within the north and western Silver
111 Spring Sector Plan areas; and

112 iii. One (1) is a resident of the southern portion of the Kemp
113 Mill- Four Corners or the Silver Spring East master plan area,

114 or the Montgomery County portion of the Takoma Park
115 planning area.

116 c. Three (3) members are employers of fewer than fifty (50) employees
117 in the district; and

118 d. Three (3) members are employers of fifty (50) or more employees in
119 the district.

120 (2) The following are nonvoting members of the advisory committee:

121 a. The directors or their designees of the:

122 i. Department; and

123 ii. Silver Spring Center;

124 b. A representative of the planning board;

125 c. A representative of the Montgomery County Police Department.

126 (c) Nominations.

127 (1) Prior to deciding who shall be recommended to the county executive for
128 membership on the advisory committee, the Silver Spring Advisory Board
129 must solicit nominations, by letter, from the presidents of each civic
130 association in the district and the Silver Spring/Takoma Park policy area as
131 well as from the mayor and city council of Takoma Park.

132 (2) The county executive may reject individuals nominated to serve on an
133 advisory committee and request additional nominations.

134 (d) Term.

135 (1) Advisory committee members serve for a period of three (3) years beginning
136 July 1. However, when the advisory committee is first formed:

- 137 a. The period between appointment and the next July 1 is not counted
138 as part of a committee member's term; and
- 139 b. The county executive may designate up to six (6) members to serve
140 for only two (2) years.
- 141 (2) The county executive may reappoint committee members.
- 142 (e) Duties.
- 143 (1) The advisory committee may advise the county government on all aspects of
144 programs, management, and finances relating to the implementation of
145 transportation system management in the district and vicinity.
- 146 (2) The advisory committee:
- 147 a. Proposes guidelines for traffic mitigation plans;
- 148 b. Monitors the implementation of the traffic mitigation plans;
- 149 c. Evaluates progress in attaining the commuting goals specified in the
150 annual growth policy;
- 151 d. Recommends government, private, or joint actions necessary to
152 facilitate attainment of the commuting goals specified in the annual
153 growth policy;
- 154 e. Advises the director on parking policies, including the parking rate
155 structures for garages in the district funded under section 60-16;
- 156 f. Reviews traffic patterns and control measures in the district and
157 vicinity, including any relevant issues relating to neighborhood
158 parking and pedestrian access and safety;

- 181 (d) Each employer must submit its traffic mitigation plan within forty-five (45) days
 182 after receiving notice under subsection (a).
- 183 (e) The director may extend an employer's time to file a traffic mitigation plan for good
 184 cause.
- 185 (f) (1) The director may require that the owner of a nonresidential building in the
 186 district submit a traffic mitigation plan if:
- 187 a. The director determines that a plan under this subsection can best
 188 achieve the purpose of this article because of the owner's control of
 189 parking or common space or for other similar reasons; and
- 190 b. Notice is provided to the owner of the building as required in
 191 subsection (a).
- 192 (2) As designated in the notice, the plan may cover all or some of the employers
 193 in the building. A plan required to be submitted under this subsection may be
 194 in addition to that required under this section of an individual employer.
- 195 (3) Upon receipt of the notice required under this section, an owner must submit
 196 a traffic mitigation plan that meets the requirements applicable to an
 197 employer.
- 198 (g) The director, in consultation with the advisory committee, must provide guidance in
 199 the preparation of traffic mitigation plans.
- 200 (h) The director must:
- 201 (1) Determine if each proposed plan meets the requirements of this section; and
 202 (2) Participate with the employer in revising a plan that does not meet the
 203 requirements.

204 (i) (1) An employer required to submit a traffic mitigation plan may submit a
 205 consolidated plan with other employers in the same building or complex of
 206 buildings. A consolidated plan must be designed so that the consolidated
 207 actions would satisfy the requirements of this section measured on an overall
 208 basis for all employers covered by the plan.

209 (2) An owner may submit a traffic mitigation plan on behalf of one (1) or more
 210 employers in a building to satisfy the requirements imposed on the
 211 employers under this section measured on an overall basis for all employers
 212 covered by the plan.

213 (j) The director may require an employer to resubmit a plan that is not consistent with
 214 the commuting goals specified in the annual growth policy. The director may not
 215 require an employer to submit a plan that meets the requirements of this section
 216 more than once every two (2) years.]

217 **[42A-16. Traffic mitigation agreements.**

218 (a) (1) Any proposed subdivision or optional method development in the district
 219 must be subject to a traffic mitigation agreement if the planning board
 220 determines, under criteria and standards adopted by the county council
 221 relating to the adequacy of public transportation facilities, that additional
 222 transportation facilities or traffic alleviation measures are necessary for
 223 approval.

224 (2) A traffic mitigation agreement must specify those transportation system
 225 management measures that will be undertaken by the applicant or other
 226 responsible party. The transportation system management measures must be

227 reasonably calculated to ensure that public transportation facilities will be
 228 adequate to serve the proposed development by meeting the commuting
 229 goals specified in the annual growth policy.

230 (b) A traffic mitigation agreement may include:

- 231 (1) The required appointment of a transportation coordinator;
- 232 (2) Limitations on parking spaces;
- 233 (3) Peak period parking charges;
- 234 (4) Preferential parking requirements for carpools and vanpools;
- 235 (5) Provision of transit or vanpool subsidies for employees;
- 236 (6) Financial or other participation in the construction or operation of related on-
 237 or off-site transportation facilities or systems; or
- 238 (7) Other transportation system management measures;

239 (c) A traffic mitigation agreement must be:

- 240 (1) Executed by the applicant, the department, and the planning board; and
- 241 (2) Made an express condition of any approval for subdivision under chapter 50
 242 or optional method development under chapter 59, division 59-D-2, as
 243 appropriate.

244 (d) A traffic mitigation agreement is subject to all additional review and approval
 245 requirements of chapter 50, "Subdivision Regulations," and chapter 59, division 59-
 246 D-2, "Project Plan for Optional Method of Development, CBD Zones," as
 247 applicable.

248 (e) A traffic mitigation agreement may:

- 249 (1) Require adequate financial security assurances, including bonds, letters of

- 250 credit, or similar guarantees;
- 251 (2) Be made binding on future tenants; and
- 252 (3) Provide for liquidated damages, specific performance, or other remedies, as
- 253 appropriate.
- 254 (f) The department is the agency designated to enforce the contractual terms of a traffic
- 255 mitigation agreement. This may not be interpreted, however, to limit the planning
- 256 board's authority to revoke or otherwise enforce, in accordance with law, any
- 257 approvals granted for subdivision under chapter 50 or optional method development
- 258 under chapter 59, division 59-D-2, in the event of noncompliance with a traffic
- 259 mitigation agreement.]

260 **[42A-17. Annual survey.**

- 261 (a) The director, after consulting the advisory committee, must establish a schedule for
- 262 annual commuter surveys.
- 263 (b) The director, after consulting the advisory committee, must prepare an employer
- 264 commuter survey form that generates information:
 - 265 (1) To establish an accurate data base of employee commute patterns;
 - 266 (2) To monitor progress toward the attainment of the commuting goals specified
 - 267 in the annual growth policy.
- 268 (c) The director must mail the annual survey forms to all employers under the schedule
- 269 the director establishes. Each notified employer must submit a completed survey to
- 270 the director within forty-five (45) days after receiving the form.]

271 **[42A-18. Annual report.**

272 (a) By September 1 of each year, starting September 1, 1988, the director must submit
 273 to the advisory committee and planning board an annual report on transportation
 274 system management in the district. The report must include:

- 275 (1) Employee commute patterns by employer in the district;
- 276 (2) Auto occupancy rates by employer in the district;
- 277 (3) Level of service measurements for each intersection in the district and
 278 selected critical intersections outside of the district:
- 279 (4) Parking supply and demand in the district;
- 280 (5) Status of road or intersection improvements, signal automation, and other
 281 traffic modifications in the district and vicinity;
- 282 (6) Transit utilization and availability in the district; and
- 283 (7) Carpooling and vanpooling efforts in the district.

284 (b) By January 1 of each year, starting January 1, 1989, the county executive must
 285 forward the annual report to the county council. The county executive must note any
 286 areas of disagreement between the director and the advisory committee.

287 (c) If the commuting goals specified in the annual growth policy are not met by
 288 September 1, 1990, the director must recommend to the county executive corrective
 289 action, which may include mandatory mitigation measures for the district.]

290 **[42A-19. Regulations.**

291 The county executive may adopt regulations under method (2) to implement this article.]

292 **[42A-20. Enforcement.**

293 The department enforces this article. Any employer who fails within thirty (30) days after a
 294 second notice to submit a traffic mitigation plan or to provide survey data is guilty of a class C

295 violation. An owner who fails within thirty (30) days after a second notice to submit a traffic
 296 mitigation plan is guilty of a class C violation. Any party to a traffic mitigation agreement under
 297 section 42A-16 who fails within thirty (30) days after notice to comply with the agreement is guilty
 298 of a class A violation.]

299 **[Article III. Transportation Management in Metro Station Areas.]**

300 **[[42A-20A. Application.**

301 This Article applies [in] to each Metro station policy area or transportation management
 302 district designated in the Alternative Review Procedure[s] for Transportation Facilities adopted in
 303 the [annual growth policy] Annual Growth Policy, and [in] to any other Metro station policy area or
 304 transportation management district designated in the [annual growth policy] Annual Growth
 305 Policy.]]

306 **42A-21. Definitions.**

307 In this Article, unless the context indicates otherwise:

308 [(a)] *Alternative work hours program* means any system [for shifting] that shifts the
 309 workday of an employee so that the workday starts or ends outside of [the] a peak
 310 period, including:

- 311 (1) compressed workweeks;
- 312 (2) staggered work hours involving a shift in the set work hours of [some or all]
 313 an employee[s] at the workplace; or
- 314 (3) flexible work hours involving individually determined work hours under
 315 guidelines established by the employer.

316 [(b)] *Annual* [growth policy] *Growth Policy* means the most recently adopted Annual
 317 Growth Policy under Section 33A-15.

- 318 [(c)] *Carpool* means a motor vehicle occupied by 2 or more employees traveling together.
- 319 [(d)] *Commute* means a home-to-work or work-to-home trip.
- 320 [(e)] *Department* means the Department of Public Works and Transportation.
- 321 [(f)] *Director* means the Director of the Department of Public Works and Transportation
 322 or the Director's designee.
- 323 [(g)] *District* means a transportation management district created [in one or more
 324 Metro station policy areas] under this Article.
- 325 [(h)] *Employee* means [any] a person hired by an employer, including a part-time or
 326 seasonal worker.
- 327 [(i)] *Employer* means any public or private [employer] business or government entity,
 328 including the County, employing 25 or more employees and having a permanent
 329 place of business in a district. The maximum number of employees on the largest
 330 shift working in a district determines the size of the employer. Employer does not
 331 include:
- 332 (1) a contractor, business, or government entity with no permanent place of
 333 business in a district;
- 334 (2) a home-based business;
- 335 (3) a business with no employees housed at that work site;
- 336 [(2)] (4) any business with no permanent workplace or location; or
- 337 [(3)] (5) any government agency not required by law to follow County regulations.
- 338 [(j)] *Peak period* means the hours of highest transportation use in a district each workday,
 339 as defined in the resolution creating [that] a district.

340 [(k)] *Planning Board* means the Montgomery County Planning Board of the Maryland-
 341 National Capital Park and Planning Commission.

342 [(l)] *Single-occupancy vehicle* means a motor vehicle occupied by one employee for
 343 commuting purposes, other than a two-wheeled vehicle.

344 Telework means a work arrangement where a manager directs or permits an
 345 employee to perform usual job duties away from the central workplace in
 346 accordance with established performance expectations and agency-approved or
 347 agreed-upon terms.

348 [(m)] *Transportation demand management* means any method of reducing demand for
 349 road capacity during [the] a peak period, including an alternative work hours
 350 program[s], carpool, vanpool, subsidized transit pass[es], preferential parking,
 351 improved bicycle and pedestrian access and safety, [and] or peak period parking
 352 charge[s].

353 [(n)] *Transportation management organization* means a public, nonprofit private, or
 354 public-private firm, corporation, or instrumentality created or contracted to manage
 355 or coordinate transportation demand management programs.

356 [(o)] *Vanpool* means a van occupied by at least 8 employees traveling together.

357 [(p)] *Workplace* means the place of employment, base of operations, or predominant
 358 location of an employee.

359 **42A-22. Findings and purposes.**

360 (a) New economic development is important to stimulate the local economy. Focusing
 361 new development in [highly] high transit-[serviceable] service areas [, such as Metro

362 station policy areas,] is an important County land use and economic development
 363 objective.

364 (b) Limited transportation infrastructure, [and related] traffic congestion, pedestrian
 365 access, and safety [concerns] issues [are constraining] impede the [achievement of]
 366 County's land use and economic development objectives.

367 (c) Transportation demand management, in conjunction with adequate transportation
 368 facility review, planned capital improvement projects, and parking and traffic
 369 control measures, will:

370 (1) help provide sufficient transportation capacity to achieve County land use
 371 objectives and permit further economic development [in Metro station policy
 372 areas];

373 (2) reduce the demand for road capacity, and promote traffic safety and
 374 pedestrian access [in Metro station policy areas]; and

375 (3) help reduce vehicular emissions, energy consumption, and noise levels.

376 (d) [The resulting improved] Improved traffic levels [of service,] and air quality and a
 377 reduction in ambient noise levels will help [make Metro station policy areas] create
 378 attractive and convenient places to live, work, visit, and [do] conduct business.

379 (e) Transportation demand management will [also] equitably allocate responsibility for
 380 reducing single-occupancy vehicle trips among government, developers, employers,
 381 [nonresidential] property owners, and the public.

382 (f) Transportation demand management should be [used in Metro station policy areas,]
 383 consistent with any commuting goals set in the [annual growth policy] Annual
 384 Growth Policy, [to] and foster coordinated and comprehensive government, private

385 industry, and public action [by government, new developers, property owners and
 386 employers] to:

- 387 (1) increase transportation capacity;
- 388 (2) reduce existing and future levels of traffic congestion;
- 389 (3) reduce air and noise pollution; and
- 390 (4) promote traffic safety and pedestrian access.

391 (g) [The use of transportation] Transportation demand management [in Metro station
 392 policy areas] will substantially advance [these important] public policy objectives.
 393 Adoption of this Article is in the best interest of the public health, safety, and general
 394 welfare [in Metro station policy areas and] of the County [as a whole].

395 **42A-23. Districts; authority of the Department and Planning Board.**

396 (a) The County Council by resolution may create [one or more] transportation
 397 management districts [in each Metro station policy area, or may create one or more
 398 districts which include all or parts of more than one Metro station policy area. A
 399 district may also include areas which are served by the same transportation network
 400 as the Metro station policy area] in any Metro station policy area, which may include
 401 adjacent areas served by the same transportation network, or in any area where
 402 policy area transportation review applies under the Annual Growth Policy.

403 (b) The Department may take actions necessary to achieve effective transportation
 404 demand management in each district, on its own or by contract with any employer,
 405 transportation management organization, or other party, including:

- 406 (1) regulating or limiting public parking, by regulation adopted under method
- 407 (2);

- 408 (2) monitoring and assessing traffic patterns and pedestrian access and safety;
- 409 (3) adopting traffic and parking control measures;
- 410 (4) providing approved transportation-related capital projects;
- 411 (5) promoting or implementing transit and ridesharing incentives;
- 412 (6) promoting regional cooperation between the County and other government
- 413 agencies ~~[[; and]]~~
- 414 (7) creating cooperative County-private sector programs to increase ridesharing
- 415 and transit use; ~~and~~ [[.]]
- 416 (8) conducting surveys, studies, and statistical analysis to determine the
- 417 effectiveness of traffic mitigation plans and employer efforts.
- 418 (c) In each transportation management district, sole source contracts may be signed
- 419 with, or funds granted to, one or more transportation management organizations to
- 420 carry out transportation demand management programs ~~[which]~~ that the Department
- 421 could otherwise carry out, under Chapter 11B.
- 422 (d) The Department and the Planning Board may, in accordance with this Article and
- 423 other applicable law, jointly impose ~~[[reasonable]]~~ transportation demand
- 424 management measures as conditions on the Board's approval of development in any
- 425 district.
- 426 (e) Each district may have a Transportation Management District Advisory Committee
- 427 if the Executive by regulation decides ~~[one]~~ a Committee is necessary to carry out
- 428 this Article or if the Council creates ~~[one]~~ a Committee by resolution. The
- 429 Executive or Council may ~~[also]~~ designate any existing advisory body appointed by
- 430 the Executive and confirmed by the Council to serve as a Transportation

431 Management District Advisory Committee. The Executive must appoint and the
 432 Council must confirm [The] members of any Advisory Committee [must be
 433 appointed by the Executive and confirmed by the Council]. The County must not
 434 compensate members of an Advisory Committee for their services. [The County
 435 financial disclosure law does not apply to] Advisory Committee members, [who are]
 436 not otherwise public employees as defined in Chapter 19A, are not subject to the
 437 financial disclosure provisions of that Chapter.

438 **42A-24. Traffic mitigation plans.**

439 (a) If an employer is subject to this Section, and if the Council by resolution or in the
 440 [annual growth policy] Annual Growth Policy has approved the use of traffic
 441 mitigation plans in a given district, the Director [may] must notify the employer by
 442 letter that the employer must submit a traffic mitigation plan meeting the
 443 requirements of this Section.

444 (b) An employer who employs 25 or more employees in a district at any time within one
 445 year before receiving notice under subsection (a) must submit ~~[[an annual]]~~ a traffic
 446 mitigation plan to the Director~~[[, unless the Director determines that a less frequent~~
 447 plan is appropriate]].

448 (c) The traffic mitigation plan should be consistent with and contribute to the
 449 achievement of any commuting goals set in the [annual growth policy] Annual
 450 Growth Policy. A traffic mitigation plan may include [use of] an alternative work
 451 hours program, [incentives for] carpool[s] or vanpool[s] incentives, subsidized
 452 transit passes, preferential parking, peak period or single-occupancy vehicle parking

453 charges, improved bicycle and pedestrian access and safety, telework, and other
 454 transportation demand management measures.

455 ~~[(d)]~~ ~~[[The Director [may] must establish a schedule for initial submission of traffic~~
 456 ~~mitigation plans by employers.]]~~

457 ~~[(e)]~~(d) Each employer must submit its traffic mitigation plan within [45] 90 days after
 458 receiving notice under subsection (a). The Director may extend an employer's time
 459 to file a traffic mitigation plan for good cause.

460 ~~[(f)]~~(e) (1) An employer may submit a consolidated traffic mitigation plan with other
 461 employers in the same building or building complex [of buildings].

462 [Similarly, an] An owner of a nonresidential building in a district may
 463 submit a consolidated traffic mitigation plan on behalf of one or more
 464 employers in the building.

465 (2) A consolidated plan must be designed so that the action[s] it requires
 466 [satisfy] satisfies this Section for [all] employers covered by the plan.

467 ~~[(g)]~~(f) (1) The Director may require an owner of a nonresidential building in a district
 468 to submit a traffic mitigation plan if:

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

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

473 (2) As specified in the notice, the owner's plan may cover all or some employers
 474 in the building. A plan submitted under this subsection may be in addition to
 475 one an individual employer must submit.

476 (3) After receiving notice under this Section, an owner must submit a traffic
 477 mitigation plan that meets the requirements applicable to an employer.

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

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

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

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

488 ~~[(i)]~~(h) The Director must offer to help employers and owners prepare traffic mitigation
 489 plans.

490 ~~[(j)]~~(i) The Director must:

491 (1) decide if each proposed plan meets the requirements of this Section; and

492 (2) help the employer or owner revise a plan which does not meet the
 493 requirements.

494 ~~[(k)]~~(i) The Director may require an employer or owner to resubmit a plan [which] that is
 495 not consistent with any commuting goals set in the [annual growth policy] Annual
 496 Growth Policy. The Director must not require an employer to submit a plan that
 497 meets the requirements of this Section more than once every 2 years.

498 An employer must submit a report on transportation management measures used to
 499 implement a traffic mitigation plan to the transportation management organization
 500 based on a schedule the Director sets.

501 **Sec. 42A-25. Traffic mitigation agreements.**

502 (a) Any proposed subdivision or optional method development in a district must be
 503 subject to a traffic mitigation agreement if the Planning Board and the Director
 504 jointly decide, under standards adopted by the Council for the adequacy of public
 505 transportation, that more transportation facilities or transportation demand
 506 management measures are necessary to meet any commuting goals set in the annual
 507 growth policy.

508 (b) A traffic mitigation agreement must specify [those] transportation demand
 509 management measures that the applicant or [another] a responsible party must carry
 510 out. The measures must be [[reasonably]] calculated to ensure that public
 511 transportation will be adequate to meet [any] commuting goals set in the [annual
 512 growth policy] Annual Growth Policy.

513 (c) A traffic mitigation agreement may require:

- 514 (1) naming a transportation coordinator;
- 515 (2) limits on parking spaces;
- 516 (3) peak period or single-occupancy vehicle parking charges;
- 517 (4) preferential parking for carpools and vanpools;
- 518 (5) subsidies for employees not using single-occupancy vehicles;
- 519 (6) financial or other participation in building or operating on- or off-site
 520 transportation facilities or systems; [or]

521 (7) providing space on a periodic basis for marketing and promotional activities
522 of the district;

523 (8) designating permanent areas in prominent locations to display information
524 on commuting options; or

525 [(7)] (9) other transportation demand management measures[;].

526 (d) A traffic mitigation agreement must be:

527 (1) agreed to by the applicant, the Department, and the Planning Board;

528 (2) made an express condition of any approval for subdivision under Chapter 50
529 or optional method development under Chapter 59; [and]

530 (3) subject to all other review and approval requirements of Chapter 50 and
531 Chapter 59 [which apply]; and

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

533 (e) A traffic mitigation agreement may:

534 (1) require adequate financial security, including bonds, letters of credit, or
535 similar guarantees;

536 (2) bind future tenants of the development; and

537 (3) specify liquidated damages, specific performance, or other contractual
538 remedies, as appropriate.

539 (f) The Department must enforce the terms of each traffic mitigation agreement. This

540 does not limit the Planning Board's authority to revoke or otherwise enforce any

541 approvals for subdivision under Chapter 50 or optional method development under

542 Chapter 59[if an applicant does not fully comply with a traffic mitigation

543 agreement].

544 **42A-26. Annual survey.**

545 (a) The Director, after consulting ~~[[any]]~~ the appropriate Advisory Committee, [may]
 546 must schedule an annual commuter survey[s], unless the Director determines that a
 547 less frequent plan is appropriate.

548 (b) The Director, after consulting ~~[[any]]~~ the appropriate Advisory Committee, [may]
 549 must prepare a survey that generates information to:

550 (1) create an accurate data base of employee commuting patterns in the [policy
 551 area] district; and

552 (2) monitor progress toward reaching any commuting goals set in the [annual
 553 growth policy] Annual Growth Policy.

554 (c) The Department [may] must [mail] distribute the ~~[[annual]]~~ survey [form] to [all]
 555 employers ~~[[under the]]~~ based on a schedule the Director sets. Each notified
 556 employer must distribute, collect, and return ~~[[submit a]]~~ the completed surveys to
 557 the~~[[Department]]~~ transportation management organization within 45 days after
 558 receiving [the form] ~~[[it]]~~ the surveys.

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

561 **42A-27. Executive report.**

562 (a) By [September 1] December 1 of each even-numbered year, the Director must
 563 submit to ~~[[any]]~~ the appropriate Advisory Committee and the Planning Board [an
 564 annual] a report on transportation demand management in each district. The report
 565 should include:

566 (1) employee commuting patterns by employer;

- 567 (2) auto occupancy rates by employer;
- 568 (3) level of service measurements for each intersection in the policy area and
- 569 selected critical intersections outside [it] the area;
- 570 (4) parking supply and demand;
- 571 (5) status of road or intersection improvements, signal automation, improved
- 572 bicycle and pedestrian access and safety, and other traffic modifications in or
- 573 near the policy area;
- 574 (6) transit use and availability;
- 575 (7) carpool[ing] and vanpool[ing] use; and
- 576 (8) the source and use of any funds received under this Article.
- 577 (b) By [January 1] March 1 of each odd-numbered year, the Executive must forward
- 578 each [[annual]] report to the Council. The Executive must note any area of
- 579 disagreement between the Director and an Advisory Committee.
- 580 (c) If any commuting goals set in the [annual growth policy] Annual Growth Policy are
- 581 not met [by] 4 years after a district is created, the Director must recommend [to the
- 582 Executive] corrective action to the Executive. This action may include mandatory
- 583 mitigation measures. If the Executive agrees that such action[s are] is necessary, the
- 584 Executive should propose appropriate legislation or adopt appropriate regulations as
- 585 authorized by law.

586 **42A-28. Regulations.**

587 The Executive may adopt regulations under method (2) to implement this Article.

588 **42A-29. Transportation Management Fee.**

- 589 (a) (1) The Executive may by regulation adopted under method (2) set the amount

590 of a ~~[[Transportation Management Fee]]~~ transportation management fee
 591 [which] that the Department may annually charge, [each applicant who files
 592 an application after January 1, 1994,] under the Alternative Review
 593 Procedures [for Metro Station Policy Areas adopted] in the [FY 1994 annual
 594 growth policy] Annual Growth Policy, an applicant for subdivision or
 595 optional method development approval in a district and each successor in
 596 interest of that applicant.

597 (2) If the resolution creating a district so provides, the Department may also
 598 charge the ~~[[Transportation Management Fee]]~~ transportation management
 599 fee to:

- 600 (A) [all] other applicants for subdivision or optional method development
- 601 in the district, and each successor in interest; and
- 602 (B) owners of existing commercial and multi-unit residential properties
- 603 in the district.

604 (b) The rate of the ~~[[Transportation Management Fee]]~~ transportation management fee
 605 must be set to produce not more than an amount of revenue substantially equal to:

- 606 (1) the portion of the cost[s] of administering the district, including the review
- 607 and monitoring of traffic mitigation plans under Section 42A-24 and traffic
- 608 mitigation agreements under Section 42A-25, reasonably attributable to the
- 609 transportation effects of development subject to the ~~[[Fee]]~~ fee; and
- 610 (2) the portion of the cost[s] of any program implemented under Section 42A-
- 611 23(b), including any vehicle or other equipment necessary to carry out any
- 612 such program, reasonably attributable to the transportation effects of

613 development subject to the ~~[[Fee]]~~ fee.

614 (c) A ~~[[Transportation Management Fee]]~~ transportation management fee may be
 615 assessed on:

616 (1) the gross floor area, the maximum or actual number of employees, or the
 617 average number of customers, visitors, or patients, in a nonresidential
 618 building;

619 (2) the number of dwelling units, or the gross floor area, in a residential
 620 building;

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

622 (4) any other measurement reasonably related to transportation use by occupants
 623 of, employees located in, or visitors to a particular development.

624 (d) The transportation management fee and the basis on which it is assessed may vary
 625 from one district to another and one building or land use category to another.

626 (e) If the transportation management fee is assessed on a gross floor area basis (as
 627 defined in Section 8-38(e)), the rate must not exceed 10 cents per square foot subject
 628 to the Fee. If the fee is assessed on any other basis, the total collected each year
 629 from any district must not significantly exceed the total amount [which] that would
 630 have been collected from that district if the rate were 10 cents per square foot.

631 **42A-30. Enforcement.**

632 The Department must enforce this Article. [Any] An employer [who] that does not submit a
 633 traffic mitigation plan or provide survey data within 30 days after a second notice has committed a
 634 class C violation. An owner who does not submit a traffic mitigation plan within 30 days after a
 635 second notice has committed a class C violation. [Any] A party to a traffic mitigation agreement

636 under Section 42A-26 who does not comply with the agreement within 30 days after notice has
637 committed a class A violation.

638 Sec. 2. Phase-in.

639 (a) An employer that employs 50 or more employees and has received notice under
640 Section 42A-24(a) must submit an initial traffic mitigation plan that meets the
641 requirements of this Section to the Director by January 1, 2004.

642 (b) An employer that employs 25 to 49 employees and has received notice under
643 Section 42A-24(a) must submit an initial traffic mitigation plan that meets the
644 requirements of this Section to the Director by January 1, 2005.

645

646 *Approved:*

647 /S/ November 26, 2002

Steven A. Silverman, President, County Council Date

648 *Approved:*

649 /S/ December 5, 2002

Douglas M. Duncan, County Executive Date

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

651 /S/ December 9, 2002

Mary A. Edgar, CMC, Clerk of the Council Date