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

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Chapter 42A is amended as follows:

Article II. Transportation [System] Demand Management.

[42A-10. Application.

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


In this Article, unless the context indicates otherwise:

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

(1) Compressed workweeks;

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

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

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

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

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

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

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

(g) District means a transportation management district established in the Silver Spring central business district as defined in Section 59-C-6.12(c).
(h) Employee means any person hired by an employer, including part-time and seasonal workers.

(i) Employer means any public or private employer, including the County, having a permanent place of business in the district. The maximum number of employees on the largest shift determines the size of the employer. "Employer" does not include:

1. Contractors with no permanent place of business in the district;
2. Other businesses with no permanent workplace or location; or
3. Government agencies not required by law to follow county regulations.

(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. during workdays.

(k) Planning board means the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

(l) Single-occupancy vehicle means a motor vehicle occupied by one (1) employee for commuting purposes, excluding two-wheeled vehicles.

(m) Transportation system management means any method of reducing demand for road capacity during the peak period, including alternative work hours programs, carpools, vanpools, subsidized transit passes, preferential parking, and peak period parking charges.

(n) Vanpool means a van occupied by at least eight (8) employees traveling together.

(o) Workplace means the place of employment, base of operation, or predominant location of an employee.

[42A-12. Findings, general intent.]
(a) The district is experiencing significant new economic activity and interest in further
revitalization.

(b) Limited transportation infrastructure in the district and vicinity and related traffic
congestion, pedestrian access, and safety concerns are primary constraining factors
in achieving county land-use and economic development objectives.

(c) Transportation system management is undertaken in conjunction with adequate
transportation facility review, planned capital improvement projects, and parking
and traffic control measures to provide sufficient transportation capacity to achieve
county land use objectives and further permit economic development in the district.

(d) Transportation system management will reduce the demand for road capacity and
promote traffic safety and pedestrian access in the district and vicinity.

(e) Transportation system management will also help reduce vehicular emissions,
energy consumption, and noise levels. The resulting improved traffic levels of
service, air quality, and ambient noise levels will contribute to making the district
and vicinity an attractive and convenient place to live, work, visit, and do business.

(f) Transportation system management will equitably allocate responsibility for
reducing single-occupancy vehicle trips among government, developers, employers,
nonresidential property owners, and the public.

(g) The establishment of transportation system management in the district in accordance
with this article substantially advances these important governmental objectives.

Adoption of this article is in the best interests of the public health, safety, and
general welfare, both within the district and the county.]

[42A-13. Creation; purpose; authority of the department and planning board.]
Transportation system management is established in the district to foster coordinated and comprehensive transportation system management by government, new developers, property owners and employers in order to:

(1) Increase transportation capacity;
(2) Reduce existing and future levels of traffic congestion;
(3) Reduce air and noise pollution; and
(4) Promote traffic safety and pedestrian access.

Transportation system management in the district must be implemented in a manner consistent with the commuting goals specified in the annual growth policy.

(1) The department may take action necessary to achieve transportation system management in the district in accordance with this article and other applicable law, including:

a. Constrained parking;
b. Monitoring and assessment of changing traffic patterns and pedestrian access and safety in the district and vicinity;
c. Establishment of traffic and parking control measures in the district and vicinity;
d. Provision of approved transportation-related capital projects in the district and vicinity;
e. Promotion, development, and implementation of transit and ridesharing incentive programs;
f. Promotion of regional cooperation between the county and other governmental agencies; and
g. Establishment of cooperative county and private sector programs to increase ridesharing and transit usage.

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


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

(b) Composition.

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

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

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

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

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

iii. One (1) is a resident of the southern portion of the Kemp Mill- Four Corners or the Silver Spring East master plan area,
or the Montgomery County portion of the Takoma Park planning area.

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

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

a. The directors or their designees of the:
   i. Department; and
   ii. Silver Spring Center;

b. A representative of the planning board;

c. A representative of the Montgomery County Police Department.

(c) Nominations.

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

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

(d) Term.

(1) Advisory committee members serve for a period of three (3) years beginning July 1. However, when the advisory committee is first formed:
a. The period between appointment and the next July 1 is not counted as part of a committee member's term; and

b. The county executive may designate up to six (6) members to serve for only two (2) years.

(2) The county executive may reappoint committee members.

(e) Duties.

(1) The advisory committee may advise the county government on all aspects of programs, management, and finances relating to the implementation of transportation system management in the district and vicinity.

(2) The advisory committee:

a. Proposes guidelines for traffic mitigation plans;

b. Monitors the implementation of the traffic mitigation plans;

c. Evaluates progress in attaining the commuting goals specified in the annual growth policy;

d. Recommends government, private, or joint actions necessary to facilitate attainment of the commuting goals specified in the annual growth policy;

e. Advises the director on parking policies, including the parking rate structures for garages in the district funded under section 60-16;

f. Reviews traffic patterns and control measures in the district and vicinity, including any relevant issues relating to neighborhood parking and pedestrian access and safety;
g. Submits comments and recommendations on the director's annual report required under section 42A-18 by December 1 of each year, starting December 1, 1988.

(f) Compensation.

(1) The county does not compensate members of the advisory committee for their services.

(2) Committee members are exempt from chapter 19A, "Ethics."

(g) Advisory category. The advisory committee is in the advisory category established in section 2-143.]


(a) Upon determining that an employer may be subject to this article, the director must notify the employer, by letter, that the employer must submit a traffic mitigation plan meeting the requirements of this section.

(b) An employer who employs twenty-five (25) or more employees in the district at any time within one (1) year preceding the date of notice under subsection (a) must submit a traffic mitigation plan to the director. The traffic mitigation plan should be consistent with the commuting goals specified in the annual growth policy. A traffic mitigation plan may include use of an alternate work hours program, carpools, vanpools, subsidized transit passes, preferential parking, and peak period parking charges or other transportation system management measures.

(c) The director must establish a schedule for initial submission of traffic mitigation plans by employers.
(d) Each employer must submit its traffic mitigation plan within forty-five (45) days after receiving notice under subsection (a).

(e) The director may extend an employer's time to file a traffic mitigation plan for good cause.

(f) (1) The director may require that the owner of a nonresidential building in the district submit a traffic mitigation plan if:

   a. The director determines that a plan under this subsection can best achieve the purpose of this article because of the owner's control of parking or common space or for other similar reasons; and

   b. Notice is provided to the owner of the building as required in subsection (a).

(2) As designated in the notice, the plan may cover all or some of the employers in the building. A plan required to be submitted under this subsection may be in addition to that required under this section of an individual employer.

(3) Upon receipt of the notice required under this section, an owner must submit a traffic mitigation plan that meets the requirements applicable to an employer.

(g) The director, in consultation with the advisory committee, must provide guidance in the preparation of traffic mitigation plans.

(h) The director must:

   (1) Determine if each proposed plan meets the requirements of this section; and

   (2) Participate with the employer in revising a plan that does not meet the requirements.
(i) (1) An employer required to submit a traffic mitigation plan may submit a consolidated plan with other employers in the same building or complex of buildings. A consolidated plan must be designed so that the consolidated actions would satisfy the requirements of this section measured on an overall basis for all employers covered by the plan.

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

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


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

(2) A traffic mitigation agreement must specify those transportation system management measures that will be undertaken by the applicant or other responsible party. The transportation system management measures must be
reasonably calculated to ensure that public transportation facilities will be
adequate to serve the proposed development by meeting the commuting
goals specified in the annual growth policy.

(b) A traffic mitigation agreement may include:

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

(c) A traffic mitigation agreement must be:

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

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

(e) A traffic mitigation agreement may:

(1) Require adequate financial security assurances, including bonds, letters of
credit, or similar guarantees;

(2) Be made binding on future tenants; and

(3) Provide for liquidated damages, specific performance, or other remedies, as appropriate.

(f) The department is the agency designated to enforce the contractual terms of a traffic mitigation agreement. This may not be interpreted, however, to limit the planning board's authority to revoke or otherwise enforce, in accordance with law, any approvals granted for subdivision under chapter 50 or optional method development under chapter 59, division 59-D-2, in the event of noncompliance with a traffic mitigation agreement.]


(a) The director, after consulting the advisory committee, must establish a schedule for annual commuter surveys.

(b) The director, after consulting the advisory committee, must prepare an employer commuter survey form that generates information:

(1) To establish an accurate data base of employee commute patterns;

(2) To monitor progress toward the attainment of the commuting goals specified in the annual growth policy.

(c) The director must mail the annual survey forms to all employers under the schedule the director establishes. Each notified employer must submit a completed survey to the director within forty-five (45) days after receiving the form.]

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

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

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

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


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


The department enforces this article. Any employer who fails within thirty (30) days after a second notice to submit a traffic mitigation plan or to provide survey data is guilty of a class C
violation. An owner who fails within thirty (30) days after a second notice to submit a traffic
mitigation plan is guilty of a class C violation. Any party to a traffic mitigation agreement under
section 42A-16 who fails within thirty (30) days after notice to comply with the agreement is guilty
of a class A violation.]

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

[[42A-20A. Application.]

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


In this Article, unless the context indicates otherwise:

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

(1) compressed workweeks;

(2) staggered work hours involving a shift in the set work hours of [some or all]
an employee[s] at the workplace; or

(3) flexible work hours involving individually determined work hours under
guidelines established by the employer.

[(b) Annual [growth policy] Growth Policy means the most recently adopted Annual
Growth Policy under Section 33A-15.]}
[(c)] Carpool means a motor vehicle occupied by 2 or more employees traveling together.

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

[(e)] Department means the Department of Public Works and Transportation

[(f)] Director means the Director of the Department of Public Works and Transportation or the Director’s designee.

[(g)] District means a transportation management district created [in one or more

Metro station policy areas] under this Article.

[(h)] Employee means [any] a person hired by an employer, including a part-time or
seasonal worker.

[(i)] Employer means any public or private [employer] business or government entity, including the County, employing 25 or more employees and having a permanent
place of business in a district. The maximum number of employees on the largest
shift working in a district determines the size of the employer. Employer does not
include:

(1) a contractor, business, or government entity with no permanent place of
business in a district;

(2) a home-based business;

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

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

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

[(j)] Peak period means the hours of highest transportation use in a district each workday,
as defined in the resolution creating [that] a district.
Planning Board means the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

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

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

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

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

Vanpool means a van occupied by at least 8 employees traveling together.

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


(a) New economic development is important to stimulate the local economy. Focusing new development in [highly] high transit-[serviceable] service areas [s, such as Metro
station policy areas.] is an important County land use and economic development objective.

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

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

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

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

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

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

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

(f) Transportation demand management should be used in Metro station policy areas, consistent with any commuting goals set in the Annual Growth Policy, to foster coordinated and comprehensive government, private
industry, and public action [by government, new developers, property owners and
employers] to:

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

(g) [The use of transportation] Transportation demand management [in Metro station
policy areas] will substantially advance [these important] public policy objectives.

Adoption of this Article is in the best interest of the public health, safety, and general
welfare [in Metro station policy areas and] of the County [as a whole].

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

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

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

(1) regulating or limiting public parking, by regulation adopted under method
(2);
(2) monitoring and assessing traffic patterns and pedestrian access and safety;

(3) adopting traffic and parking control measures;

(4) providing approved transportation-related capital projects;

(5) promoting or implementing transit and ridesharing incentives;

(6) promoting regional cooperation between the County and other government agencies [[; and]]

(7) creating cooperative County-private sector programs to increase ridesharing and transit use; and [[.]]

(8) conducting surveys, studies, and statistical analysis to determine the effectiveness of traffic mitigation plans and employer efforts.

(c) In each transportation management district, sole source contracts may be signed with, or funds granted to, one or more transportation management organizations to carry out transportation demand management programs [which] that the Department could otherwise carry out, under Chapter 11B.

(d) The Department and the Planning Board may, in accordance with this Article and other applicable law, jointly impose [[reasonable]] transportation demand management measures as conditions on the Board's approval of development in any district.

(e) Each district may have a Transportation Management District Advisory Committee if the Executive by regulation decides [one] a Committee is necessary to carry out this Article or if the Council creates [one] a Committee by resolution. The Executive or Council may [also] designate any existing advisory body appointed by the Executive and confirmed by the Council to serve as a Transportation
Management District Advisory Committee. The Executive must appoint and the Council must confirm [The] members of any Advisory Committee [must be appointed by the Executive and confirmed by the Council]. The County must not compensate members of an Advisory Committee for their services. [The County financial disclosure law does not apply to] Advisory Committee members, [who are] not otherwise public employees as defined in Chapter 19A, are not subject to the financial disclosure provisions of that Chapter.

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

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

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

(c) The traffic mitigation plan should be consistent with and contribute to the achievement of any commuting goals set in the [annual growth policy] Annual Growth Policy. A traffic mitigation plan may include [use of] an alternative work hours program, [incentives for] carpool[s] or vanpool[s] incentives, subsidized transit passes, preferential parking, peak period or single-occupancy vehicle parking
charges, improved bicycle and pedestrian access and safety, telework, and other transportation demand management measures.

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

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

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

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

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

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

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

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

(2) As specified in the notice, the owner's plan may cover all or some employers in the building. A plan submitted under this subsection may be in addition to one an individual employer must submit.
After receiving notice under this Section, an owner must submit a traffic mitigation plan that meets the requirements applicable to an employer.

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

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

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

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

The Director must offer to help employers and owners prepare traffic mitigation plans.

The Director must:

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

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

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


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

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

(c) A traffic mitigation agreement may require:

(1) naming a transportation coordinator;
(2) limits on parking spaces;
(3) peak period or single-occupancy vehicle parking charges;
(4) preferential parking for carpools and vanpools;
(5) subsidies for employees not using single-occupancy vehicles;
(6) financial or other participation in building or operating on- or off-site transportation facilities or systems; [or]
providing space on a periodic basis for marketing and promotional activities of the district;

designating permanent areas in prominent locations to display information on commuting options; or

[(7)] other transportation demand management measures[.]

(d) A traffic mitigation agreement must be:

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

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

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

(4) recorded in the County’s land records.

(e) A traffic mitigation agreement may:

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

(2) bind future tenants of the development; and

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

(f) The Department must enforce the terms of each traffic mitigation agreement. This does not limit the Planning Board's authority to revoke or otherwise enforce any approvals for subdivision under Chapter 50 or optional method development under Chapter 59[if an applicant does not fully comply with a traffic mitigation agreement].

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

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

1. create an accurate data base of employee commuting patterns in the [policy area] district; and

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

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


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

1. employee commuting patterns by employer;
(2) auto occupancy rates by employer;
(3) level of service measurements for each intersection in the policy area and selected critical intersections outside the area;
(4) parking supply and demand;
(5) status of road or intersection improvements, signal automation, improved bicycle and pedestrian access and safety, and other traffic modifications in or near the policy area;
(6) transit use and availability;
(7) carpooling and vanpooling use; and
(8) the source and use of any funds received under this Article.

(b) By January 1 of each odd-numbered year, the Executive must forward each annual report to the Council. The Executive must note any area of disagreement between the Director and an Advisory Committee.

(c) If any commuting goals set in the Annual Growth Policy are not met by 4 years after a district is created, the Director must recommend to the Executive corrective action to the Executive. This action may include mandatory mitigation measures. If the Executive agrees that such action is necessary, the Executive should propose appropriate legislation or adopt appropriate regulations as authorized by law.


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

42A-29. Transportation Management Fee.

(a) (1) The Executive may by regulation adopted under method (2) set the amount
of a [[Transportation Management Fee]] transportation management fee

[which] that the Department may annually charge, [each applicant who files
an application after January 1, 1994,] under the Alternative Review
Procedures [for Metro Station Policy Areas adopted] in the [FY 1994 annual
growth policy] Annual Growth Policy, an applicant for subdivision or
optional method development approval in a district and each successor in
interest of that applicant.

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

(A) [all] other applicants for subdivision or optional method development
in the district, and each successor in interest; and

(B) owners of existing commercial and multi-unit residential properties
in the district.

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

(1) the portion of the cost[s] of administering the district, including the review
and monitoring of traffic mitigation plans under Section 42A-24 and traffic
mitigation agreements under Section 42A-25, reasonably attributable to the
transportation effects of development subject to the [[Fee]] fee; and

(2) the portion of the cost[s] of any program implemented under Section 42A-
23(b), including any vehicle or other equipment necessary to carry out any
such program, reasonably attributable to the transportation effects of
development subject to the [[Fee]] fee.

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

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

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

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

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

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

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

### 42A-30. Enforcement.

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

Sec. 2. Phase-in.

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

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

Approved:

/S/ November 26, 2002

Steven A. Silverman, President, County Council

Approved:

/S/ December 5, 2002

Douglas M. Duncan, County Executive

This is a correct copy of Council action.

/S/ December 9, 2002

Mary A. Edgar, CMC, Clerk of the Council