

Ordinance No. 18-19

ORDINANCE: To repeal in its entirety and re-enact Chapter 21 of the Rockville City Code entitled "Streets and Public Improvements," so as to amend the title to include Roads and Rights-of-Way; to reorganize the Code to improve readability; to clarify that the Chapter applies to city-owned water, sewer and stormwater management facilities; to revise and clarify certain administrative provisions; to add and amend definitions; to clarify standards and specification for public improvements; to reorganize and clarify the provisions for permits and construction of roads, public improvements in the city right-of-way; to clarify enforcement provisions; and to add an appeals process.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND that Chapter 21 of the Rockville City Code, entitled "Streets and Public Improvements" is hereby repealed in its entirety and a new Chapter 21 entitled "Streets, Roads, Rights-of-Way, and Public Improvements" is enacted to read as follows:

Chapter 21. STREETS, ROADS, RIGHTS-OF-WAY, AND PUBLIC IMPROVEMENTS

ARTICLE I. - IN GENERAL

Sec. 21-1. - Scope.

- (a) This Chapter applies to all work within City rights-of-way and easements.
- (b) This Chapter applies to all City-owned and maintained water, sewer, and stormwater improvements.
- (c) This Chapter applies to all roads and associated features within the corporate limits of the City other than:
 - (1) Federal roads.
 - (2) State roads.
 - (3) County roads.
 - (4) Private roads not within a subdivision.

- (5) Private roads on an improved lot within a subdivision which do not lead to or connect with two (2) or more other lots within the subdivision or any other subdivision.
- (d) Nothing in this Chapter prohibits or prevents the construction and benefit assessment of the cost of drainage structures, curbs and gutters, sidewalks, and driveway entrances along federal, State, or County roads.

Sec. 21-2. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a right-of-way that provides secondary access for vehicles to the side and/or rear of abutting properties.

Arterial Road means any road (other than a business district road or an industrial road) that connects two (2) or more federal, State, or County arterial roads and which will be used primarily for through traffic, whether such road lies in whole or in part within the corporate limits of the City.

Business District Road means any road which lies within or is contiguous to any area which has been approved for any class of commercial use under Chapter 25, Zoning and Planning.

Business District Road—Class I refers to any road (other than an arterial road) which lies within or is contiguous to any area which has been approved for any class of commercial or mixed use consisting of two (2) or more lanes in each direction and may be divided by a median.

Business District Road—Class II refers to any road which lies within or is contiguous to any area which has been approved for any class of commercial or mixed use that is a single lane in each direction, undivided or not separated by a median.

Construction or Constructed includes reconstruction and reconstructed. Such terms do not include maintenance or repair.

County means the Montgomery County government of the State of Maryland.

Dedication Plat means any plat conforming to law, duly recorded among the land records of the County, which has the legal effect of dedicating one (1) or more rights-of-way to public use, and the approval of the City has been affixed thereto.

Department means the Department of Public Works of the City of Rockville or any authorized representative so designated by the Director of the Department of Public Works.

Director means the Director of the Department of Public Works or designee.

Drainage Structure means culvert, storm sewer, catch basin, canal, ditch, subsurface drain, and any other structure or watercourse designed to carry off surface waters.

Dual Lane Road means any road (other than an arterial road) which has two (2) separate roadways divided by an island or median and designed for one-way traffic in each roadway.

Industrial Road means any road that lies within or is contiguous to any area which has been approved for any class of industrial use under Chapter 25, Zoning and Planning.

Person means the federal government, the State of Maryland, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any individual, partnership, company, firm, association, nonprofit organization, public or private corporation, or any other legally recognized entity.

Preliminary Grading or mass grading means grading performed in the public right-of-way or easement, in advance of subsequent public improvements. Preliminary grading is the first activity accomplished and is usually done in conjunction with other grading on private property.

Primary Industrial Road means an industrial road that:

- (1) Services as a collector or distributor of traffic within an industrial area.
- (2) Connects that area with thoroughfares of an arterial or major classification.

Primary residential road means a road (other than a business district road or arterial road) that serves or will be used as a principal outlet to a State road, business district road, or arterial road, from any existing or prospective residential development, or developments that provide or that may provide, housing for two hundred (200) or more families, whether such road lies in whole or in part, within the corporate limits of the City.

Public improvements mean items/features, of a temporary or permanent nature, that are owned and maintained by a government entity, within a City public right-of-way or easement. This may include, but not be limited to: road, sidewalk, curb, gutter, tree lawn, bike facilities, street lights, traffic control devices, driveway apron or entrance, retaining wall, trees, plants, vegetation, and components of water, sewer, and storm drain systems. Public improvements also include City owned and maintained water and sewer infrastructure outside the City right-of-way.

Right-of-way means an area on which the public has a right to pass or travel that was originally intended for development as a road, street, or highway and associated features and was accepted on behalf of the public by plat, easement, eminent domain, purchase, fee simple title, or prescriptive use. Associated features include, but are not limited to: sidewalks, tree lawn, curb, gutter, drainage features, and bike facilities.

Secondary industrial road means an industrial road that is only intended to serve the adjacent properties.

Secondary road means any road other than an arterial road, business district road, industrial road, primary residential road, or service drive, regardless of whether such road lies in whole or in part, within the corporate limits of the City.

Security or guaranty means protection, assurance, or indemnification and is used in case of failure of obligation. Security is a financial instrument, issued by a company or provided by a person, that denotes an ownership interest and provides evidence of a debt, a right to share in the earnings of the issuer, or a right in the distribution of a property. When required by the City, the security shall be furnished as a cash bond, corporate bond, irrevocable letter of credit, or certificate of guarantee issued by a surety company or financial institution authorized to do business in the State of Maryland.

Service drive or marginal access road means any road that:

- (1) Parallels and is separated by a planting strip from a federal, State, arterial, business district, or primary residential road.
- (2) Is primarily used and designed to:
 - a. Separate local traffic from through traffic using such federal, State, arterial, business district, or primary residential road.
 - b. Control traffic moving between such through traffic road and service drive and the local area served thereby.

Specifications means City of Rockville standard specifications, as set forth in Section 21-3.

Standards means City of Rockville design standards, as set forth in Section 21-3.

Stop work order means official notification from the City to discontinue all or some work, as specified in the order.

Subdivision means the division or partition of a lot, tract, or parcel of land into two (2) or more lots, plots, sites, tracts, parcels, or other divisions for the purpose, whether immediate or future, of rental, sale, or building development, and shall include re-subdivision. "Subdivision" does not include a bona fide division or partition of land for agricultural purposes.

Surety means person or firm that agrees to be primarily liable for the conduct, obligation, or performance of another, as a guaranty against a damage or loss, non-fulfillment of an obligation, or unfaithfulness.

Traffic control devices means a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

Section 21-3. - Standards and specifications.

- (a) The Director shall publish, and make available to the public, standards and specifications for public improvements, which are adopted by reference.
- (b) The Director in his sole discretion may require additional and/or alternate standards and specifications as deemed necessary. Alternate standards and specifications shall meet or exceed the approved standards and specifications. Such additional and/or alternate requirements shall be in accordance with good engineering principles.
- (c) The Director in his sole discretion may approve alternate standards and specifications when determined that the alternate standards and specifications meet or exceed the approved standards and specifications. Such alternate and/or additional requirements shall be in accordance with good engineering principles and shall be a condition of the permit.

Secs. 21-4—21-17. - Reserved.

ARTICLE II. - PERMITS FOR ROADS, PUBLIC IMPROVEMENTS, AND WORK IN CITY RIGHT-OF-WAY

Sec. 21-18. - Permits and fees required.

- (a) Approving authority. The Director is the approving authority for all permits under this article.
- (b) Plans and specifications. The Director may require submission of plans and/or specifications for permits under this section. Plan approvals for work described in this section expire six (6) months after the plan approval date if the corresponding permit has not been issued within that period. The Director may require plans to be revised to address changes in standards before the plans are re-approved. No permit will be issued if supporting construction plans have expired.

(c) Fees in general. Fees for permits described in this section shall be as established by resolution of the Mayor and Council. For fees that are based on the estimated cost of the project, the Director shall determine the estimated cost of the project by using average cost data.

(d) Public Works permit and fees. Public Works permits and fees are required for public improvements, maintenance of traffic, protection of the right-of-way or easement, and temporary use of fire hydrants.

(1) Public improvements.

a. Any person must apply for and obtain a Public Works permit from the City to construct, excavate, drill, connect to, install, or plant any public improvement of a permanent or temporary nature. Except as otherwise provided in this section, no other work or private improvement is allowed in the City right-of-way or easement, except as authorized and permitted by the Director. At the time of application, any person shall pay a Public Improvement Application and Plan Review Fee for work described herein.

b. At the time of permit issuance, any person shall pay a Public Improvement Permit Fee for work described herein.

(2) Maintenance of traffic and protection of right-of-way or easement. Any person must apply for and obtain a Public Works permit from the City for maintenance of traffic in the City right-of-way or easement and/or protection of public improvements in the City right-of-way or easement. When maintenance of traffic or protection of right-of-way or easement is included with construction of permitted public improvements as described in Section 21-18 (1), a separate permit is not required for work described in Section 21-18 (2) a. and 21-18 (2) b. below.

a. Maintenance of traffic. Maintenance of traffic is required for blocking or obstructing any portion of pedestrian or vehicular traffic within a City public right-of-way or easement intended for pedestrian or vehicular use within the corporate limits of the City.

b. Protection of right-of-way or easement. Protection of the right-of-way or easement is required for traversing the City right-of-way during construction activity, construction set-up in City right-of-way during work on adjacent property, and/or work on private improvements in a City easement.

- c. Permit fee. At the time of permit issuance, any person shall pay a Right-of-Way Protection Permit Fee for work described herein.

(3) Temporary Use of Fire Hydrants. Any person must apply for and obtain a Public Works permit from the City to obtain water from a public fire hydrant for uses other than fire suppression. All water used shall be measured by a City-issued meter and billed to the applicant. At the time of application, any person shall pay a Fire Hydrant Fee.

(e) Utility Permit. Any person must apply for and obtain a Utility permit from the City to work within a City public right-of-way or easement, in the corporate limits of the City, to install, maintain, or connect any utility, including but not limited to: gas, electric power, telephone lines, telecommunication lines, antenna, and cable television wires. At the time of permit issuance, any person shall pay a Utility Plan Review and Permit fee for work described herein.

(f) Permit exemptions.

(1) A Public Works permit is not required for residential mailboxes conforming to the United States Postal Service Mailbox Guidelines.

(2) Any work conducted by the City or its contractors is exempt from obtaining a permit under this article. This exemption does not apply to new connections from City facilities not maintained by the Department.

(g) Miscellaneous fees.

(1) Extension Fee. Any person shall pay an Extension Fee to extend the permit past the expiration date.

(2) Public Improvement Plan and Permit Revision Fee. Any person shall pay a Public Improvement Plan and Permit Revision Fee when required to revise a plan and/or permit.

(3) Public Improvement Plan Resubmission Review Fee. Any person shall pay a Public Improvement Plan Resubmission Review Fee when required.

(h) Fee exemptions.

- (1) Residential. Work undertaken and permitted by a homeowner are not subject to the application and permit fees, provided the permitted work is adjacent to the single-family residence where the homeowner resides.
- (2) City contract work. Work undertaken by the City or City Contractor are not subject to the application and permit fees.
- (3) City-requested changes. Fees may be waived for City-requested changes to approved plans, at the discretion of the Director.
- (4) Preliminary grading. Preliminary grading work is not subject to application and permit fees.

Sec. 21-19. - Security or guaranty.

- (a) Prior to issuance of any permit under this Chapter, a permittee shall post a performance security or guaranty (hereinafter referred to as security) in a form acceptable to the Department and City Attorney. The security shall be a bond, irrevocable letter of credit, or certificate of guarantee issued by a surety company or financial institution authorized to do business in the State of Maryland. The Department, in its sole discretion, may accept a cash bond or other security satisfactory to the Department and City Attorney. The security shall be bound to the City and will include all of the below conditions.
 - (1) The permittee and their agents will comply with all terms, conditions, and provisions of the permit and applicable ordinances; and requirements of the City.
 - (2) The permittee and their agents will faithfully complete the work within the prescribed time limits for which the permit is issued.
 - (3) The permittee and their agents will hold harmless the Mayor and Council of Rockville from all expenses, damages, claims, and actions arising from or relating to the performance or non-performance of the work required of the permittee, its agents, employees, or subcontractors under the Permit and applicable laws and regulations.
 - (4) The permittee and their agents will provide and maintain the security in full force and effect until all work required by the permit is completed and accepted by the City.
- (b) A separate security must be posted for each permit.

- (c) The value of the security shall be at least equal to the total estimated cost of the permitted work. The Director shall determine the cost of work, using average cost data from recent bids for comparable work received by government agencies.
- (d) Upon permittee's request, the Director, at his sole discretion, may authorize a one-time, fifty percent reduction of security amount, provided the estimated cost of the remaining permitted work is less than fifty percent of the security amount.
- (e) The Department will not return/release any security until:
 - (1) The Department conducts a final inspection of the completed work and determines that all permitted work complies with the applicable permit and approved plans.
 - (2) The Department accepts the completed road in accordance with Section 21-34.
 - (3) The Department approves as-built plans, supporting documents, and computations of the work.
 - (4) The Department receives recorded copies of any required agreements, maintenance plans, covenants, and easements.
 - (5) All enforcement actions are satisfied, and fines and penalties for violations are paid.
- (f) The City will notify the permittee in writing of the release/return of the security.

Sec. 21-20. - Conditions.

Permits required by this article shall be issued with the following conditions, where applicable, which shall be specified in the permits.

- (a) The permit shall be nontransferable.
- (b) The permit shall be valid up to two (2) years after its issuance, unless extended in writing by the Director. Extensions shall not be granted unless the security posted with the permit continues in full force and effect or a new security is posted.
- (c) Permits, approved plans, and specifications must be retained on the job site until all work under the permit is completed and the security is released.
- (d) Work and materials for use under the permit shall be open and available for inspection by the City.

- (e) Permittees shall give written notice to the Department at least two (2) business days prior to commencing any work for which the permit is issued.

Sec. 21-21. — Violations and Enforcement.

(a) Violations:

(1) The following are violations of this Chapter:

- a. failure of any person that violates any provision of this Chapter to correct and abate such condition after notice by the City.
- b. Creation of an imminent and substantial endangerment to human health, public safety, or the environment.
- c. Failure to comply with any directive of the City.
- d. Failure to comply with any requirement contained or incorporated in an administrative or judicial enforcement action in this Chapter within the specified period.
- e. failure to comply with any provision of this Chapter.

(2) each day that a violation continues constitutes a separate violation.

(3) Unless otherwise provided, a violation of this Chapter constitutes a municipal infraction for which a citation may be issued under section 1-9 of the Rockville City Code.

(4) The Director may, at any time, after finding a violation of an applicable law, regulation, or the terms and conditions of the permit, issue a stop-work order to the affected permittee and such stop-work order shall remain in effect until the noted violation is corrected to the Director's satisfaction. The Director may revoke the permit and proceed against the security, upon failure to correct such violation.

a. Surety default. When the Director proceeds against the surety, the Director must give written notice of the violation or default to the permittee and to the surety. The notice must specify the work to be done, and the period of time that the Director finds reasonably necessary to complete the work.

b. Cash bond default. When the Director proceeds against the cash bond, the Director must give written notice of the violation or default to the permittee. The notice must specify the work to be done, and the period of time that the Director finds reasonably necessary to complete the work. If compliance is not achieved within the time specified, the Director may, without delay and without further notice or proceedings, use the cash deposited, or any portion thereof, to cause the required work to be performed by contract or otherwise at the Director's discretion.

- (b) Site access. After any default in the performance of any term or condition of the permit or accepted security, the City and/or its authorized representative may enter the site to complete the required work.
- (c) City assumption of work. If the City undertakes the required work with funds from the forfeited security, the funds may be used to complete all necessary work under the permit and plans, including, but not limited to labor, materials, contracts, engineering, testing, and administration. If the cost of the work exceeds the amount of the security, the permittee is liable to pay all excess costs and expenses incurred by the City.
 - (1) The costs and expenses may be a lien upon all property and all rights to property, real or personal, of any person liable to pay those costs after the costs become due and payable, including interest at the rate applicable for overdue City taxes.
 - (2) The costs may be listed on the tax bill and may be collected in the manner of ordinary taxes.

(d) Enforcement

(1) When a violation of this Chapter is identified, the Director may, in his/her sole discretion, take any or all of the following enforcement actions against the person(s) causing or significantly contributing to the violation:

a. Administrative directives and fines.

i. Issue an abatement order to the person responsible for a violation to abate and eliminate the violation at the responsible person's own expense.

ii. Issue a directive imposing an administrative fine of \$250.

iii. The issuance of any administrative directive or fine under this section does not relieve liability for any previous or continuing violations, and issuance of the order will not bar the Director from pursuing additional action against a person in violation of this Chapter.

(2) The remedies listed in this chapter are not sequential or exclusive. The Director may take any, all, or any combination of these actions. Further, the Director may pursue any other remedies available under any applicable federal, state, or local law.

(3) All decision, findings, order, or directive issued by the Director pursuant to this section, except for a final decision of the Director on an appeal, must contain a notice of the right to appeal set forth in section 21-22.

Sec. 21-22. — Appeals of enforcement actions.

- (a) Any person aggrieved by an enforcement action under this Chapter from the Department any decision, finding, order, or directive of the Department may file an appeal in accordance with the following procedure:
1. ~~Director.~~ Any person wishing to appeal must, within five (5) business days of receiving written notice of any decision, finding, order, or directive, submit via certified mail to the Director a written request for reconsideration.
 2. ~~City Manager.~~ If reconsideration is denied, the aggrieved person may within ten (10) business days thereof, submit ~~via~~ by certified mail, a written appeal of the Director's decision, finding, order, or directive to the City Manager. The City Manager may designate another individual to hear the appeal, provided that such designee had no significant involvement in the decision, finding, order, or directive for which the appeal is being made.
 3. ~~Circuit Court.~~ The decision of the City Manager or City Manager's designee is a final decision from which an aggrieved ; ~~however, the aggrieved party may appeal~~ to the Circuit Court for the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200, as may be amended.
- (b) The City Manager may establish procedures for administrating the appeal process.
- (c) The appeal process provided by this section is the exclusive and sole method of review of any such decision, finding, order, or directive issued pursuant to this Chapter. The failure of an aggrieved person to file an appeal in accordance with the provisions of this section will be deemed a waiver of these appeal rights and of the right to challenge the decision, finding, order, or directive in any other forum or in any other manner.
- (d) While any request for reconsideration or appeal filed under this section is pending, no person charged with being in violation of this Chapter may continue to engage in the conduct alleged to violate this Chapter.

Secs. 21-23—21-32. - Reserved.

**ARTICLE III. - CONSTRUCTION OF ROADS, PUBLIC IMPROVEMENTS, AND WORK IN
CITY RIGHT-OF-WAY**

Sec. 21-33. - Construction.

(a) No public improvement shall be constructed before the right-of-way or easement for such public improvement has been acquired by the City or dedicated to public use by appropriate recording upon the land records of the County.

~~(a)~~(b) Any public improvement constructed shall conform to the City's minimum requirements, standards and specifications. The Director may require such construction be in excess or better than the City's minimum requirements, standards and specifications.

~~(b)~~(c) Nothing herein shall prohibit the Director from constructing public improvements pursuant to agreements made by the City Manager with other governmental agencies.

Sec. 21-34. - Acceptance of work

(a) The permittee and their agents shall be responsible for maintaining any public improvement constructed under permit until the public improvement is accepted for maintenance by the City.

(b) Public use of the right of way or easement shall not be allowed unless the City has accepted the public improvement. Except for water and sewer improvements, authorization for public use prior to acceptance by the City may occur when all of the following conditions are satisfied.

(1) The permittee submits a written request to the Director.

(2) The permittee agrees to continue to maintain the public improvement until final acceptance by the City.

(3) Roadway and other improvements are complete, except for the final surface course and/or other minor items, and safe for the public, at the discretion of the Director.

(4) The Director provides written authorization for public use.

(5) The permittee shall post a sign, as prescribed by the Director, that the public improvement has not been accepted by the City for public maintenance.

(c) After completion and final inspection of a public improvement:

- (1) The Director shall accept the public improvement, upon a determination that that the construction has complied with the provisions of the permit and other requirements. Any acceptance of a public improvement by the Director shall be on behalf of the City in writing, fully identifying the public improvement. Thereafter, the security shall be released and the public improvement shall be maintained by the City.
- (2) If the Director rejects the public improvement:
 - a. Said rejection will be in writing to the permittee and his surety, if applicable, specifying the reasons for such rejection and a reasonable time for the permittee or his surety to comply with the provisions of the permit and other requirements.
 - b. If the permittee or surety does not comply by correcting deficiencies cited in the rejection notice within the time specified, the City shall proceed in accordance with Section 21-21.

Secs. 21-35—21-39. - Reserved.

ARTICLE IV. - ROAD CONSTRUCTION, EXCAVATIONS AND MAINTENANCE

DIVISION 1. - GENERALLY

Sec. 21-40. - Compliance.

The construction of all roads shall conform to the provisions of this article.

(Laws of Rockville, Ch. 7, § 7-1.04)

Sec. 21-41. - Adoption of standards and specifications.

(a) The following are adopted by reference:

(1) The City of Rockville Design Standards.

(2) The City of Rockville Standard Specifications.

(b) The City Clerk shall keep two (2) copies of the standards and specifications in the official records of the City and the same shall be made available for inspection by the public during regular office hours.

- (c) Wherever alternative standards and specifications are provided, any one (1) alternative may be chosen at the option of the person applying for a permit.

Sec. 21-42. - Waivers.

- (a) Upon the recommendation of the City Manager, or upon petition of any abutting property owner liable for assessment in the construction of any front foot benefit project, the Mayor and Council may include in the notice of hearing required by the Charter, a notice that the City Manager or abutting owner, as the case may be, has recommended or requested a waiver of any requirements of this article for sidewalks, rights-of-way, paving widths, grade percentages, drainage structures, curbs, and gutters. Any interested person shall be entitled to appear and be heard at the public hearing and, following such hearing, the Mayor and Council may authorize and approve any recommended or requested waiver as to any one (1), or a combination of, the above items upon a majority vote of all the councilmembers in open session.
- (b) Where construction of a project is proposed by the City pursuant to Section 21-33, the City Manager may recommend that any requirements of this article be waived as to sidewalks, rights-of-way, paving widths, grade percentages, drainage structures, curbs, and gutters. The Mayor and Council shall then give public notice in the same manner as provided by the Charter for special assessments to the effect that the City proposes to construct such project and waive any one (1) or a combination of such items and set a time and place for a public hearing. Any interested person shall be entitled to appear and be heard at the public hearing and, following the hearing, the Mayor and Council may authorize and approve any recommended waiver as to any one (1) or a combination of the above items by a majority vote of all the councilmembers in open session.
- (c) Upon applying for a permit under this article any person may file a written request for a waiver of any requirement of this article for sidewalks, rights-of-way, paving widths, grade percentages, drainage structures, curbs, and gutters. Except as provided in Section 21-60, the City Manager may expressly approve any requested waiver as to any one (1) or a combination of the above items where he finds that it is in the public interest that the waiver be granted. Upon approving the waiver, the City Manager shall submit a written report to the Mayor and Council of his actions, and the reasons therefore at its next meeting. Such approval shall be subject to final approval by resolution of the Mayor and Council in open session. Any person feeling aggrieved by the failure or refusal of the City Manager to approve a waiver may appeal such action

by filing a request in writing with the Mayor and Council to review the request for a waiver and to grant same. Upon receipt of the written notice of appeal, the City Clerk shall set a time and place for a hearing on the matter at the earliest practicable date. After the hearing, the Mayor and Council shall by formal resolution adopted at an open meeting of the Council grant or reject the request for a waiver. In granting a waiver the City Manager and the Mayor and Council shall be guided by the general purposes and intent of this article and shall require that the work be done in accordance with sound engineering principles, with due regard to present and future circumstances and conditions affecting the public safety of the inhabitants of the City and with due regard to minimizing the future maintenance expenditures by the City. It is, however, the intent of the Mayor and Council in enacting this article that the requirements thereof shall not impose undue economic hardship upon individuals and persons proposing to install facilities designed principally to provide service for individual as opposed to present or future general public needs.

Sec. 21-43. - Records of classification and status.

An alphabetical name file of all roads within the City to which this article applies, including their classification and status as either maintained, accepted for maintenance, or not maintained, shall be kept by the City Manager. He shall also keep a similar file listing all roads according to road number.

Sec. 21-44. - Erection of street name signs.

The Director shall erect name signs at all road intersections.

Sec. 21-45. - Temporary turnarounds.

Temporary turnarounds shall be required wherever the paving for the road ends otherwise than at a paved road intersection. Such turnaround shall be graded, paved, and appropriate drainage structures including temporary curbs and gutters installed as the Director finds necessary.

Sec. 21-46. - Minimum right-of-way width.

- (a) Where a preliminary drainage study indicates that a minimum right-of-way width as herein established is inadequate for proper drainage of a particular road, the Director may require such additional right-of-way as is found necessary for such drainage purposes, provided that such requirement is made prior to the final approval and recording of a dedication plat among the land records of the County.

- (b) In the event a minimum right-of-way as prescribed in Article III, Division 2 of this article is less than that established for a given road on a plat duly recorded among the land records of the County prior to May 25, 1955, then the width as established by such plat shall prevail and the minimum construction requirements for that road shall meet such standards and specifications as are found necessary and appropriate for such width by the Director.
- (c) The construction of half roads or any road of less than the minimum width required by this Article is prohibited; provided that construction of such portions of roads shall be permitted where the dedicated portion of the road established by a dedication plat and recorded among the land records of the County prior to May 25, 1955, is of sufficient width to permit the grading and construction of paving eighteen (18) feet in width with curbs and gutters and sidewalks as are required by the design standards applicable to the particular classification of road under construction.

Sec. 21-47. - Roads to connect with other roads or end in cul-de-sac.

- (a) No road in the corporate limits of the City shall be constructed unless it connects or joins with an existing street in the corporate limits of the City at each end of the road or ends in a cul-de-sac.
- (b) Subsection (a) may be waived pursuant to the procedures set forth in Section 21-42.
- (c) Where any road construction in the corporate limits of the City ends at an intersection of an existing or dedicated road in the corporate limits of the City, the intersection shall be completed. If there are no such existing or dedicated roads in the corporate limits of the City, then a temporary turnaround or ~~backaround~~ back around shall be provided.
- (d) Notwithstanding any provisions to the contrary, no person or entity shall have any right or entitlement to connect any County road or private road located outside the corporate limits of the City to a City road or complete an intersection to any City road.

Sec. 21-48. - Drainage structures.

Whenever drainage structures are required for any particular class of road, such drainage structures shall be installed or constructed as are found by the City Manager to be necessary or appropriate after preliminary drainage study has been approved by the Director in accordance with the design standards and all applicable specifications.

Sec. 21-49. - Driveway entrances.

Driveway entrances to individual lots shall be required upon a finding by the Director that off-street parking facilities are necessary and practicable.

Sec. 21-50. - Backfilling and repairing of utility trenches.

All backfilling and repaving of utility trenches made pursuant to permits issued under subsection (d) of Section 21-18 shall be under the supervision of the Director according to City standards and all applicable specifications.

Secs. 21-51—21-55. - Reserved.

DIVISION 2. - CLASSIFICATION AND MINIMUM REQUIREMENTS

Sec. 21-56. - Classification scheme.

(a) All roads shall be classified as follows:

- (1) Alleys.
- (2) Arterial roads.
- (3) Business district roads.
- (4) Dual lane roads.
- (5) Industrial roads.
- (6) Primary residential roads.
- (7) Secondary roads.
- (8) Service drives or marginal access roads.

(b) Industrial roads shall be further classified as follows:

- (1) Primary industrial roads.
- (2) Secondary industrial roads.

(c) Dual lane roads shall be further classified as follows:

- (1) Business district roads.
- (2) Primary residential roads.
- (3) Secondary residential roads.

Sec. 21-57. - Classification procedures and requirements.

- (a) The City Manager shall, after requesting recommendations from the Mayor and Council and under one (1) of the classes of roads described in Section 21-56, classify all roads within the corporate limits of the City to which this Article applies, and shall indicate whether such roads have been accepted for maintenance or are being maintained by the City. All classifications of roads shall be in writing and accompanied by the City Manager's statement of facts and conclusions in support thereof and shall not become effective unless approved by resolution of the Mayor and Council in a public meeting. Classifications of any road may be changed from time to time in like manner.
- (b) No person shall construct any road and the City shall not authorize any road to be constructed or issue any permits therefor, until such proposed road is classified by the City Manager as prescribed in this section.

Sec. 21-58. - Alleys.

Alleys shall be constructed to the following minimum requirements:

- (a) Width. Within any area which has been recommended or approved for any class of commercial or industrial use under the provisions of Chapter 25, the right-of-way and paving shall be twenty (20) feet wide. In all other areas the paving shall be at least sixteen (16) feet wide.
- (b) Construction. The entire right-of-way shall be graded and paved, and drainage structures installed.
- (c) Standards and specifications.
 - (1) Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - (2) Drainage Structures. See Section 21-48.
 - (3) Paving. Where an alley is parallel or contiguous to a business road, the paving shall be in accordance with City standards and specifications. Where an alley is parallel or contiguous to any other than a business district road, paving shall be in accordance with City standards and specifications.

Sec. 21-59. - Arterial roads.

Arterial roads shall be constructed in conformity with the following minimum requirements:

- (a) Width. The right-of-way for all arterial roads shall be at least one hundred twenty (120) feet wide. The pavement shall consist of two (2) sections each at least twenty-four (24) feet in width and separated by a median strip fourteen (14) feet wide.
- (b) Construction. Where an arterial road passes through or abuts the subdivision, the entire right-of-way shall be graded. There shall be installed drainage structures, paving, curbs and gutters, sidewalks, crosswalks, and pedestrian ways as required by the Rockville Planning Commission. In all other areas, curbs and gutters shall be required upon a finding by the Director that they are necessary for proper drainage, and the roadbed shall be graded, and paving and drainage structures shall be installed.
- (c) Standards and specifications.
 - (1) Grading. All gradings shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - (2) Drainage Structures. See Section 21-48.
 - (3) Paving. Paving shall be in accordance with City standards and specifications.
 - (4) Curbs and Gutters. Curbs and gutters shall be built in accordance with City standards and specifications.
 - (5) Sidewalks. Sidewalks shall be built in accordance with City standards and specifications.
 - (6) Pedestrian Ways. All pedestrian ways shall be built in accordance with plans and specifications approved by the Director.

Sec. 21-60. - Business district roads.

- (a) Width. Unless prior to the date of approval by the Mayor and Council, the right-of-way has been dedicated to public use and has been recorded among the land records of the County, the right-of-way for newly constructed roads shall meet the standards as contained herein.
 - (1) Business district road—Class I: The right-of-way shall be a minimum of ninety-four (94) feet wide. The pavement will consist of two (2) sections each a minimum of twenty-seven (27) feet wide and may be separated by a median. When a median is not practicable as determined by the Director, the minimum right-of-way width

shall be eighty-eight (88) feet. Each twenty-seven (27) foot section shall include a bicycle lane.

(2) Business district road—Class II: The right-of-way shall be a minimum of seventy-two (72) feet wide. The pavement will be a minimum of thirty-eight (38) feet wide.

(b) All business district roads will include buffers and sidewalks. The buffer shall be a minimum of seven (7) feet wide and the sidewalk shall be a minimum of ten (10) feet wide. The sidewalk width may be reduced by two (2) feet on both sides of the roadway where buildings are not placed at the property line. In its place, two (2) foot easements shall be provided.

(c) Construction standards and specifications. The entire right-of-way shall be graded and shall include paving, storm drainage systems, curbs and gutters, buffers, and sidewalks. The buffer shall be located between the back line of the curb and the inside edge of the sidewalk. The sidewalk shall be installed from the property line to the outside of the buffer. If approved by the Director, where buildings are positioned at or near the property line, dry utilities may be located within the right-of-way under the sidewalk or in locations that do not create conflicts with other utilities. Otherwise, dry utilities shall be located in an easement pursuant to Chapter 25, Article 17, as amended. When redevelopment and/or public projects occur within the City, existing business district roads are to be reconstructed to bring them to these standards to the maximum extent practicable within the right-of-way, when additional right-of-way or easements cannot be obtained.

(d) Waivers. Waivers for right-of-way and/or pavement width requirements for business district roads, as provided herein, shall be approved or denied by the Director. All other waivers of this Article shall be made pursuant to Section 21-42, as amended. The Director may approve a waiver from the required right-of-way and/or pavement width requirements, if any of the following are requested as part of a permit application:

- (1) Wide lanes for vehicular movements at access points, and/or immediately adjacent to parking lands on Class II roads.
- (2) The addition of bicycle sharing systems.
- (3) The addition of turn bays at intersections.
- (4) The addition of parking lanes within the paved section of Class I roads.

- (5) The addition of bicycle facilities on Class II roads as required in accordance with the Bikeway Master Plan. Where right-of-way constraints are present, parking lanes may be replaced with bicycle facilities along Class II roads.
- (6) The addition of stormwater management systems other than standard storm drainage systems.

Sec. 21-61. - Dual lane roads.

Dual lane roads shall be constructed in accordance with the following minimum requirements:

- (a) Width. The right-of-way shall be at least one hundred (100) feet. The width of pavement of each roadway where the dual lane is so classified shall be as follows:
 - (1) Business road, thirty-two (32) feet.
 - (2) Primary residential road or secondary residential road, twenty (20) feet.
- (b) Construction. The entire right-of-way shall be graded and drainage structures and paving shall be installed. Wherever required by this Article for the particular class in which a dual lane road is placed, curbs and gutters and sidewalks shall be installed.
- (c) Standards and specifications.
 - (1) Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - (2) Drainage Structures. See Section 21-48.
 - (3) Paving. Paving shall be of the required width and conform to City standards and specifications for business district, primary or secondary residential roads according to the particular class in which the road has been placed.
 - (4) Curbs and Gutters. Curbs and gutters shall be built on both sides of each roadway of a dual lane road in accordance with standards and specifications applicable to the particular classification in which the dual lane road has been placed.
 - (5) Sidewalks. Sidewalks shall be built on each side of a dual lane road on the side of the respective roadway upon which the building lots abut, and in accordance with City standards and specifications.

Sec. 21-62. - Industrial roads.

Industrial roads shall be constructed in conformity with the following minimum requirements:

- (a) Width. The right-of-way for primary industrial roads shall be at least seventy (70) feet and for secondary industrial roads shall be at least sixty-six (66) feet. Paving shall be at least forty-four (44) feet wide for primary industrial roads, and at least forty (40) feet wide for secondary industrial roads.
- (b) Construction. The entire right-of-way shall be graded and there shall be installed paving, drainage structures, curbs and gutters, and sidewalks.
- (c) Standards and specifications.
 - (1) Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - (2) Drainage Structures. See Section 21-48.
 - (3) Paving. Paving shall be of the required width and in accordance with City standards and specifications.
 - (4) Curbs and Gutters. Curbs and gutters shall be built in accordance with City standards and specifications.
 - (5) Sidewalks. Sidewalks shall be built in accordance with City standards and specifications.

Sec. 21-63. - Primary residential roads.

Primary residential roads shall be constructed according to the following minimum requirements:

- (a) Width. The right-of-way shall be at least seventy (70) feet wide unless prior to May 25, 1955, a dedication plat has been filed among the land records of the County establishing a right-of-way of less than seventy (70) feet in which case such established right-of-way shall prevail for any roads which may be classified as primary residential. Such roads shall have paving at least thirty-six (36) feet wide.
- (b) Construction. The entire right-of-way shall be graded, and drainage structures, paving, curbs and gutters, and sidewalks shall be installed.

(c) Standards and specifications.

- (1) Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
- (2) Drainage Structures. See Section 21-48.
- (3) Paving. Paving shall be of the required width and in accordance with City standards and specifications.
- (4) Curbs and Gutters. Curbs and gutters shall be built in accordance with City standards and specifications.
- (5) Sidewalks. Sidewalks shall be built in accordance with City standards and specifications.

Sec. 21-64. - Secondary roads.

Secondary roads shall be constructed in accordance with the following minimum requirements:

- (a) Width. The right-of-way shall be at least sixty (60) feet wide unless prior to May 25, 1955, a dedication plat has been filed among the land records of the County, establishing a right-of-way less than sixty (60) feet, in which case such an established right-of-way shall prevail; provided that on permanent cul-de-sac streets a right-of-way width of fifty (50) feet may be permitted. Paving shall be at least twenty-six (26) feet wide. At the closed end of a cul-de-sac street, the paved circular turnaround area shall have a diameter of not less than eighty-six (86) feet.
- (b) Construction. The entire right-of-way shall be graded, and drainage structures, paving, curbs and gutters, and sidewalks shall be installed.
- (c) Standards and specifications.
 - (1) Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - (2) Drainage Structures. See Section 21-48.

- (3) Paving. Paving shall be of the required width and in accordance with City standards and specifications.
- (4) Curbs and Gutters. Curbs and gutters shall be built in accordance with City standards and specifications.
- (5) Sidewalks. Sidewalks shall be built in accordance with City standards and specifications.

Sec. 21-65. - Service drives.

- (a) A service drive may be required prior to the final approval and recording of a dedication plat among the land records of the County wherever the Director or other governmental authority holding jurisdiction finds, resulting from a traffic study, that there exists a present or prospective need for so separating and controlling the movement of traffic.
- (b) Service drives shall be constructed in accordance with the following minimum requirements:
 - (1) Width. An adequate right-of-way shall be provided as found necessary by the Director to construct a service drive as prescribed by City standards and specifications, provided that where a service drive is established on any dedication plat which has been recorded among the land records of the County prior to May 25, 1955, the width of the right-of-way shall not be greater than that established on the plat. Paving shall be a minimum of twenty (20) feet wide.
 - (2) Construction. The entire right-of-way shall be graded, and drainage structures, paving, curbs and gutters, and sidewalks shall be installed.
 - (3) Standards and specifications.
 - a. Grading. All grading shall be done in accordance with plans and profiles approved by the Director and shall comply with City standards and specifications.
 - b. Drainage Structures. See Section 21-48.

- c. Paving. Paving shall be of the required width and in accordance with City standards and specifications.
- d. Curbs and Gutters. Curbs and gutters shall be built in accordance with City standards and specifications.
- e. Sidewalks. Sidewalks shall be built on the side of the service drive upon which building lots abut and shall be built in accordance with City standards and specifications.

Secs. 21-66—21-80. - Reserved.

ARTICLE V. - STREET CLOSINGS AND ABANDONMENT

DIVISION 1. - GENERALLY

Sec. 21-81. - Definitions.

In this Article "public way" has the meaning assigned to it in Article IX, Section 1 of the Charter.

Sec. 21-82. - Scope; Article exclusive.

- (a) This Article shall apply to all public ways, whether or not used by the public.
- (b) Public ways of the City may not be closed, nor may the same be considered abandoned, except as provided in this Article.

Sec. 21-83. - Temporary closing.

Any public way in use by the public may be closed temporarily for up to eighteen (18) months by simple resolution of the Mayor and Council. Such closing shall not, for any purposes, constitute an abandonment of such public way.

Secs. 21-84—21-95. - Reserved.

DIVISION 2. - PERMANENT CLOSING AND ABANDONMENT

Sec. 21-96. - Application.

An application to permanently close and abandon any public way of the City shall be submitted on forms provided by and shall be filed in the office of the City Clerk. The application may be filed at any time by any interested person or governmental agency or by the Mayor and Council. If the application is not made by the Mayor and Council, it shall be accompanied by a filing fee in such

amount as may, from time to time, be established by resolution of the Mayor and Council. Such application shall contain the following:

- (a) The name and address of the applicant.
- (b) A general description of the public way by name and United States Post Office numbering or intersecting streets.
- (c) The interest of the applicant; unless the applicant is a government agency or the Mayor and Council.
- (d) The applicant's reasons for making such application.
- (e) A description of the public way by metes and bounds.

Sec. 21-97. - Hearing procedure.

- (a) Upon accepting any application under this Division for filing, the City Clerk shall set the application for a public hearing by the Mayor and Council at a specified date, time, and place, and shall cause to be published once at the expense of the applicant in a paper of general circulation in the City, a notice of the public hearing on such application stating the application number, date, time, and place of hearing, the name of the applicant, the interest of the applicant, and a general description of the public way by name and United States Post Office numbering or intersecting streets. Such notice shall be published not less than ten (10) days prior to the public hearing scheduled thereon.
- (b) The City Clerk shall give notice of the public hearing on such application, by certified mail to the applicant, all public utility companies authorized by the State to operate within the City having overhead or underground facilities within the City; and all owners, according to assessment records, of real property immediately adjacent to the public way which is the subject of the application. The notice shall contain such information as is required by subsection (a). The provisions of this subsection (b) are directory and not mandatory, and failure of compliance herewith shall not affect the validity of the application or the decision of the Mayor and Council.
- (c) At the public hearing before the Mayor and Council, any interested person, any representative of any public utility company, any representative of any governmental agency, or councilmember shall have the right to submit oral or written testimony. There shall be a complete stenographic transcript of the testimony at the public

hearing, and such transcript, together with all exhibits admitted at the public hearing, shall be incorporated by the City Clerk in the application file and shall be considered a part of the record on the application. Such public hearing may be adjourned from time to time to a date certain announced prior to adjournment.

- (d) The decision of the Mayor and Council on any application may be rendered at any time after conclusion of the public hearing thereon, but shall, in any event, be rendered within sixty (60) days of the conclusion of the public hearing, unless such time is extended by resolution of the Mayor and Council. Notice of the decision shall be mailed by first class mail, by the City Clerk to all persons testifying at the public hearing who have supplied their addresses to the City Clerk. If the decision of the Mayor and Council is to deny the application, it shall be in the form of a resolution. If the decision is to grant the application, it shall be in the form of an ordinance.
- (e) The decision of the Mayor and Council on any application shall be final, except that such decision may be reconsidered if an application therefore is filed with the City Clerk within twenty (20) days of the decision, and copies of such application to reconsider are certified to have been mailed by first class mail to all persons entitled to notice of the original decision. Notice of the decision of the Mayor and Council on the application to reconsider shall be mailed by first class mail by the City Clerk to all persons entitled to notice of the original decision.
- (f) Any interested person or governmental agency may appeal from a decision of the Mayor and Council to the Circuit Court for the County, in accordance with the provisions of the Maryland Rules of Procedure now in force relating to appeals from administrative agencies, and as they may be amended from time to time. An order for appeal must be filed in the Circuit Court within thirty (30) days of the decision of the Mayor and Council, or if an application to reconsider has been filed, within twenty (20) days of the denial by the Mayor and Council of such application to reconsider.

Sec. 21-98. - Recording of ordinance.

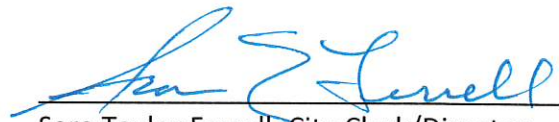
Any ordinance passed by the Mayor and Council closing and abandoning any public way of the City shall recite the names of the applicant and all owners, according to assessment records, of real property immediately adjacent to the public way, and such ordinance shall be duly certified by the City Clerk and recorded among the land records of the County, and indexed under the names of the City, the applicant, and the adjacent property owners, according to assessment records.

* * * * *

NOTE: ~~Strikethrough~~ indicate material deleted after introduction

Underlining indicates material added after introduction

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of July 8th, 2019



Sara Taylor Ferrell, City Clerk/Director
Of Council Operations