

Ordinance No. _____

AN ORDINANCE TO AMEND CHAPTER 19 OF THE CITY CODE,
ENTITLED "STREETS AND SIDEWALKS," ARTICLE II, ENTITLED,
"ROAD CONSTRUCTION," ARTICLE III, ENTITLED,
"ABANDONMENT OF PUBLIC RIGHTS-OF-WAY,"
SO AS TO DEFINE NEW ROAD DESIGN STANDARDS
BY REGULATION, ESTABLISH WAIVER PROVISIONS, AND
CORRECT CITATIONS AND CROSS REFERENCES

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg,
in public meeting assembled, that Chapter 19 of the City Code, Article II and Article
III, are hereby amended to read as follows:

Chapter 19

STREETS AND SIDEWALKS

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ARTICLE II. ROAD CONSTRUCTION

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Sec. 19-8. - Applicability of article.

Road design and construction within the city for all private and public roads other than county or state roads or federal highways shall be subject to the minimum permit requirements, standards and specifications set out in this article.

Sec. 19-9. - Construction permits for roads, sidewalks, drainage structures, etc.; required.

It shall be unlawful for any person to grade for or construct any road, or construct within any road any sidewalk, driveway entrance, curb and gutter, drainage structure or road cuts for utilities or begin any of such construction without first obtaining a permit therefor.

Sec. 19-9A. - Permits for placement of facilities or utilities, whether private or public, in roads, public rights-of-way, and public utility easements; required.

(a) It shall be unlawful for any person to obstruct, grade, dig, excavate or construct, within, over or under any public road or other public right-of-way or public improvement easement, without first obtaining a permit from the city.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>

- (b) It shall be unlawful for any person to install, repair or maintain, within or under any public road, right-of-way or public improvement easement, any privately owned facility, structure, fixture, equipment, conduit, cable or pipe without first obtaining a permit from the city.
- (c) Permits approved under this section shall, as specified in sections 20-19A and 20-62A(j), be subject to such rights as the city possesses with respect to those rights of way and applicable requirements set forth in right-of-way and road design standards adopted by regulation pursuant to section 2-10, and shall be installed, where approved, in a manner that minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, and otherwise maintains the integrity and character of the neighborhoods in which the facilities are located; and ensures that installations are subject to periodic review to minimize the intrusion on the rights of way, and may, in the discretion of the city manager or designee:
 - (1) Be subject to such conditions as are necessary to protect the public health, safety and welfare; and
 - (2) Be subject to the permittee posting with the city such bonds or other financial security to insure the completion, safety, workmanship and restoration of the work and/or work area so permitted; and
 - (3) Be subject to relocation at the expense of the permittee in the event that the privately owned facility is found to conflict with future public facilities or with access to repair, replace or maintain existing or future public facilities;
 - (4) Be subject to the execution by permittee of written agreements of insurance and indemnification as are reasonably necessary to protect the interests of the city; and
 - (5) Be subject to the permittee obtaining and maintaining all required consents, licenses or franchises from the city with respect to the facilities that are the subject of the permit.

Sec. 19-10. - Application.

An application for a permit required by this article shall be made to the city on such form as may be prescribed by the city manager, and shall be accompanied, in each case by detailed profiles, plans and specifications, location and right-of-way plats, and a detailed estimate of the cost of construction prepared by a registered professional engineer and ~~an inspection and engineering~~ a permit and application fee in accordance with section 19-11.

Sec. 19-11. - Fees.

The applicant for a permit required by this article shall pay to the city ~~an inspection and engineering~~ a permit fee in such amount as shall be established by the city council by resolution. The ~~city council~~ city manager shall have the right to waive this fee or to reduce it or to refund all or part of it in any case in which the ~~council~~ city manager finds that the benefit to the city from the work heretofore done or to be done is such as to justify such waiver or reduction. An amount not exceeding

one-half of the fee prescribed herein may, in the discretion of the city manager, be refunded to the applicant if the permit is denied.

Sec. 19-12. - Conditions.

Construction permits required by this article shall be issued upon the following conditions, which shall be specified therein:

- (a) Irrespective of the plans and specifications accompanying the application, the actual construction shall conform to law and to the minimum requirements for a road of its class.
- (b) Such permit shall be nontransferable, and it shall be invalid if any provisions thereof are violated.
- (c) The work authorized by any such permit shall be completed within six (6) months after its issuance unless an extension of time for completion shall be granted in writing by the city manager. ~~No extension shall be granted unless the bond delivered in compliance with section 19-13 or the written agreement delivered in lieu thereof by its terms continues in full force and effect or a new bond or agreement is delivered or the consent of the surety to the extension is obtained. Failure to complete the work within said six (6) months or such longer time as may be set forth in such an extension shall constitute a breach of the condition of such bond or written agreement delivered pursuant to section 19-13. The permit must be kept in force until such time as all work has been completed, inspected, approved, and accepted by the city.~~
- (d) The permittee and his agents, servants and subcontractors shall comply with all written requirements of the city manager directed to the permittee, either before or during the course of grading or construction, which are deemed necessary in the interest of public safety or for the avoidance of unnecessary inconvenience to the public during such grading or construction.
- (e) The construction work, materials, plans and specifications shall be at all times open to inspection by duly authorized officials and employees of the city and by any private inspector approved by the city manager pursuant to paragraph (k) hereof.
- (f) No paving shall be performed pursuant to any such permit unless there has been approval of grading by the city manager.
- (g) A notice shall be posted by the permittee in a conspicuous place on each project site as near to a public paved road as practicable. ~~Such notice shall consist of a sign which shall be furnished to the permittee by the city upon the issuance of the permit, and such sign shall contain a statement to the effect that the construction is authorized by the city under permit and the permit number shall appear thereon.~~ Such sign shall be posted and remain posted continuously throughout the course of construction of the work covered by the permit and until final inspection thereof. Neither the permittee nor his agents or employees shall remove such sign during the period that it is required to be posted, and if such sign is torn down or

removed by any other person or thing, the permittee shall cause such sign to be replaced within twenty-four (24) hours, excluding Saturdays and Sundays. ~~The city shall issue new signs upon request to replace any which are damaged, lost or destroyed. For failure to comply with the provisions of this subsection, the permittee shall forfeit and pay to the city the sum of fifty dollars (\$50.00), and any other penalties for a violation of this article shall not apply. A copy of the city permit and approved construction and site plans must be kept on-site at all times.~~

- (h) No permit shall be issued for construction unless the right-of-way has been acquired by the city or has been dedicated to the public use, and such acquisition or dedication has been duly recorded among the land records of the county.
- (i) Whenever, in the opinion of the city manager, the conditions of any permit are being violated, the city manager may order the permittee to stop construction and may revoke the permit. The wilful refusal of any permittee to stop construction after receiving notice of a stop-work order shall be deemed a violation of this article.
- (j) Upon finding that the standards and specifications are not feasible or practicable for a particular project, ~~the council~~ city manager may grant such alternate or requested additional standards and specifications as may be deemed necessary in accordance with good engineering principles, and such alternate or additional requirements shall be part of and a condition of the approval and permit.
- (k) The city manager is authorized to permit inspection of work performed pursuant to such a permit by qualified persons other than city employees, and to accept from any such person a certificate of compliance with this article.

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Sec. 19-14. - Road classification and minimum requirements. Compliance with Chapter 19, Article II (Road Construction); acceptance of projects and release from bonds.

All permittees and their agents and assignees shall comply with all applicable provisions of Chapter 19, Article II of the this Code. Acceptance of any and all projects, and releases from bonds or other security required thereunder, shall be conditioned upon the requirements of section 103-19, Montgomery County Code, 1965, as amended, and formal acceptance of the work by the city manager.

~~All roads shall be classified as provided in this section, and minimum requirements for each classification are hereby established as follows:~~

(a) Residential secondary:	Low volume secondary roads serving up to fifty (50) housing units, utilized as extensions of existing secondary roads or incorporated as feeders to cul-de-sacs, all servicing lots provided with off-street parking for two (2) vehicles.
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Classification:	RS
ROW width:	Fifty (50) foot minimum
Paving width:	Thirty-two (32) feet (twenty-six (26) feet width in extensions of existing paving)
Paving section:	Montgomery County Standard No. MC-211.01, as modified by subsection 19-15(f)
<i>(b) Residential primary:</i>	Moderate volume primary roads serving between fifty (50) and seven hundred fifty (750) housing units with essentially residential land usage abutting; not to be used as a through traffic carrier except in extenuating circumstances.
Classification:	RP
ROW width:	Sixty (60) foot minimum
Paving width:	Thirty-six (36) foot minimum
Paving section:	Montgomery County Standard No. MC-212.01, as modified by subsection 19-15(f)
<i>(c) Residential collector:</i>	Moderately high volume collector roads serving in excess of seven hundred fifty (750) housing units with essentially residential land usage abutting; with variable land usage abutting, or where by virtue of location, the road will become a link between one or more major roads and in a high density development area the paving shall be dualized.
Classification:	RG
ROW width:	Seventy (70) foot minimum (with additional ROW required at major intersections)
Paving width:	Forty-eight (48) foot minimum (dual twenty-four (24) foot minimum with median as required alternate)
Cross-over spacing:	Three hundred (300) foot minimum or as directed
Paving section:	Montgomery County Standard No. MC-213.01, as modified by subsection 19-15(f)
<i>(d) Business district:</i>	Moderately high volume road in or abutting a commercial, industrial district or utilized as a transition between a major highway and lower classification road that will be subject to considerable turning and stopping movements as well as back traffic. In critical locations the required right-of-way shall be increased for future augmentation.
Classification:	BD
ROW width:	Eighty (80) foot minimum (with additional ROW required at major intersections)
Paving width:	Dual Twenty-four (24) feet
Cross-over spacing:	Three hundred (300) foot minimum or as directed
Paving section:	Montgomery County Standard No. MC-214.01, as modified by subsection 19-15(f)

<i>(e) Major limited control:</i>	High volume road with grade intersections and limited direct access to abutting property (with restriction at intersections), utilizing geometric design and traffic control to expedite traffic movement.
Classification:	ML
ROW width:	One hundred twenty (120) foot minimum (with additional ROW required at major intersections)
Paving width:	Dual thirty-six (36) feet
Cross-over spacing:	Seven hundred fifty (750) foot minimum or as directed
Paving section:	Montgomery County Standard No. MC-218.01, as modified by subsection 19-15(f)
<i>(f) Major controlled:</i>	High volume road in congested location, augmented by service roads which may or may not be continuous and with access connections limited to selected grade intersections.
Classification:	MC
ROW width:	One hundred fifty (150) foot minimum (with additional ROW required at major intersections)
Paving width:	Dual thirty-six (36) feet (with twenty (20) foot service lanes as required)
Cross-over spacing:	Controlled
Paving section:	Montgomery County Standard No. MC-218.01, as modified by subsection 19-15(f)
<i>(g) Service drive:</i>	Any road which parallels or augments a federal, state or major road and is separated therefrom by a median strip and is utilized to separate and control local traffic from through traffic. The service drive may be required prior to the recordation of a dedication plat wherever traffic studies indicate the need exists.
Classification:	SD
ROW width:	As required
Paving width:	Twenty (20) foot minimum
Paving section:	Montgomery County Standard No. MC-211.01, as modified by subsection 19-15(f)
<i>(h) Alley:</i>	Includes any so designated right-of-way which provides secondary service access for vehicles to the side or rear of abutting properties. Alleys shall be classified as one-way, fifteen (15) foot ROW with twelve (12) foot width paving, or two (2), twenty-five (25) foot ROW with twenty (20) foot width paving.
Classification:	AL
ROW:	Fifteen (15) feet (one-way), twenty-five (25) feet (two-way)
Paving:	Twelve (12) feet (one-way), twenty (20) feet (two-way)
Paving section:	Montgomery County Standard No. MC-211.01, as modified by subsection 19-15(f)

<i>(i) Residential tertiary:</i>	Low volume roads to serve residential developments in lieu of residential secondary roads, where the planning commission finds that the site development plan features are such as to render unnecessary the right-of-way width and paving width requirements for residential secondary roads.
Classification:	RT
ROW width:	Twenty-seven and four tenths (27.4) foot minimum
Paving width:	Twenty-six (26) foot minimum
Paving section:	Montgomery County Standard No. MC-211.01, as modified by subsection 19-15(f).

Sec. 19-15. - Standards and specifications.

Unless otherwise specified, all paving materials and road design criteria shall conform to the most recent Montgomery County Road Code Department of Public Works and Transportation Design Standards, as amended. With prior approval of the city, federal or state, road design criteria and standards may be utilized. In state highway administration rights-of-way, all paving materials and road design criteria shall conform to the most recent roads Maryland State Highway Administration Standards and Specifications, as amended. All storm drainage shall be designed and constructed in accordance with the most recent Montgomery County Department of Public Works and Transportation or with prior approval of the city in accordance with Maryland State Highway Administration Standards and Specifications, as amended, and approved by the city. ~~A waiver of paving materials and road design criteria can be issued by resolution of the city council in order to meet the requirements or intent of Chapter 8 "Erosion and Sediment Control and Stormwater Management," or Chapter 22, "Trees and Forest Conservation," or Chapter 24, "Zoning."~~

- (a) *Grading.* The rights-of-way shall be full width graded and slope shaped in accordance with plans and profiles submitted to and approved by the city engineer, utilizing Montgomery County Road Code Department of Public Works and Transportation Design Standards Specifications and Procedures.
- (b) *Storm drainage.* All storm drainage shall be designed in accordance with the criteria of Montgomery County Department of Public Works and Transportation and Maryland State Highway Administration Standards and Specifications. Plans, including drainage study and computations, shall be reviewed and approved by the city engineer in advance of permit issuance and construction.
- (c) *Curb and gutter.* Curb and gutter shall be built in accordance with Montgomery County Department of Public Works and Transportation and Maryland State Highway Administration Standards and Specifications.
- (d) *Sidewalks.* Sidewalks shall be built in accordance with Montgomery County Department of Public Works ~~and~~ Standard Details and will require an additional four-inch layer of graded aggregate base (GAB) to stabilize the soil subgrade as per the Transportation and Maryland State Highway Administration Standards and Specifications.

- (e) *Driveway aprons.* Driveway aprons shall be built in accordance with Montgomery County Department of Public Works and Transportation and Maryland State Highway Administration Standards and Specifications.
- (f) *Paving.* Paving shall be constructed to the required widths indicated ~~on the respective paving sections of the road classification table~~ within the requirements set forth in right-of-way, road design and traffic calming standards (Road Code) adopted by regulation. Plans shall be prepared in accordance with the Montgomery County Department of Public Works and Transportation Design Standards Specifications. The city will require a minimum of an additional six-inch layer of graded aggregate stone base (GAB) or, with prior approval by the city engineer a minimum, of an additional 12-inch layer of soil cement base course on all streets to stabilize the soil subgrade, which is to be shown as part of the paving section on the plans. Graded aggregate stone base (GAB) or soil cement, shall be placed on approved subgrade on all public or private streets prior to paving. Plans shall be reviewed and approved by the city engineer in advance of permit issuance and construction. Soil cement is to be constructed in accordance with the Maryland State Highway Administration Standards and Specifications.
- (g) *Utility installations.* No person, including any utility corporation, shall cut any road for the purpose of installing or connecting underground gas, sewer and water, electric power, or telephone lines without first obtaining a permit from the city. All backfilling and repaving of such utility trenches shall be under the supervision of the city manager or ~~her~~ authorized representative designee, and shall be done according to requirements established by the City of Gaithersburg, Montgomery County Department of Public Works and Transportation, and Maryland State Highway Administration Standards and Specifications.
- (h) *Shared Use / Bicycle Path.* Shared use and bicycle paths shall be constructed to the required widths indicated on the Street Type Chart. The Shared Use Path paving section, at a minimum, shall consist of 1½-inch bituminous concrete surface course, 2½-inch bituminous concrete base course, and 4-inch graded aggregate base (GAB) or, material shall conform to the sidewalk standard, Sec. 19-15(d) with an additional four-inch layer of graded aggregate base (GAB) to stabilize the soil subgrade.

Sec. 19-16- Compliance with articles; acceptance of projects and release from bonds. Road classification and minimum requirements

~~All permittees under this article and their agents and servants shall comply with all applicable provisions of this article. Acceptance of any and all projects, and releases from bonds or other security required thereunder, shall be conditioned upon the requirements of section 103-19, Montgomery County Code, 1965, as amended, and formal acceptance of the work by the city manager.~~

All public and privately owned and maintained roads other than county or state roads or federal highways within the city shall conform to the applicable requirements set forth in right-of-way, road design and traffic calming standards (Road Code)

adopted by regulation pursuant to section 2-10 of the city code and Sec. 19-15 of this chapter.

Sec. 19-17. - Road classification table.

CODE REF.	ROAD CLASSIFICATION	DESIGNATION	MIN. ROW	GENERAL USAGE	MIN. PAVING	MIN. MEDIAN	MIN. SIDE	CURB & GUTTER	SIDEWALK	MIN. C/L RAD.	CROSS-OVER DIST.
19-14(a)	Residential Secondary	RS-1	50'	Extension of existing facilities	26'		12'	yes	no	150'	
19-14(a)	Residential Secondary	RS-1	50'	Cul-de-sac Lead Roads	32'		9'	yes	req. one side	150'	
19-14(b)	Residential Primary	RP-1	60'	Standard Residential	36'		12'	yes	as req.	300'	
19-14(b)	Residential Primary	RP-2	100'	Cul-de-sac Turn around	2-18'	50'	7'	yes	no	50'	
19-14(c)	Residential Collector	RC-1	70'	Single Abutting Land Use	48'		11'	yes	as req.	300'	
19-14(c)	Residential Collector	RC-2	70'	Multiple Abutting Land Use	2-24'	10'	6'	yes	as req.	300'	300'
19-14(d)	Business District	BD-1	80'	Business and Industrial	2-24'	20'	6'	yes	yes	300'	300'
19-14(d)	Business District	BD-2	80'	Major to Minor Transition	2-24'	20'	6'	yes	yes	300'	300'
19-14(e)	Major-Limited Control	ML-1	120'	General Major Highway	2-36'	16'	16'	yes	as req.	750'	750'
19-14(f)	Major Controlled	MC-1	150'	Special Major Highway with Service Drive	2-36' 2-20'	16'	6'	yes	as req.	1000'	Controlled
19-14(g)	Service Drive	SD-1	Vari.	Where Required	20'			yes	no	100'	
19-	Alley	AL-1	15'	One-Way	12'		1½'		no		

14(h)				Alley						
19-14(h)	Alley	AL-2	25'	Two-Way Alley	20'		2½'		no	
19-14(i)	Residential Tertiary	RT	27.4'	Low-Volume Residential	26'			yes	as req.	100'

Sec. 19-17. - Deviations from Standards and Road Code

Waivers from the requirements of sections 19-15 and 19-16 (Standards and Road Code) may be requested in writing where evidence is presented that such waivers, based upon sound engineering and technical judgment and the required findings, are in the public interest, reflect the land use context, and that requirements for safety, function, fire protection, multi-modal needs, and maintainability are fully met.

The city council may grant such waivers by resolution upon the findings that:

- 1) There are existing physical limitations that preclude the full accommodation of the Standards; and /or
- 2) A city approved traffic impact analysis supports the waiver from the Standards; and /or
- 3) It can be demonstrated that the waiver is necessary to meet the requirements or intent of Chapter 8 "Erosion and Sediment Control and Stormwater Management," or Chapter 22, "Trees and Forest Conservation"; and
- 4) The granting of such waivers will not result in decreased multi-modal functionality for the road users and the general public; and
- 5) The granting of such waivers will not adversely affect safety or operations; and
- 6) The granting of such waivers for public roads will not adversely affect future maintenance and its associated costs.

ARTICLE III. - ABANDONMENT OF PUBLIC RIGHTS-OF-WAY

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Sec. 19-27. - Application filing fee .

The applicant for an abandonment, other than the city manager, shall pay to the city, at the time of the filing of his application, the sum of fifty dollars (\$50.00) or such other sum as may be fixed from time to time by the mayor and council by resolution. a fee in such amount as shall be established by the city council by resolution.

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ADOPTED by the City Council of the City of Gaithersburg, this ____ day of _____, 2018.

JUD ASHMAN, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this ____ day of _____, 2018. APPROVED by the Mayor of the City of Gaithersburg this ____ day of _____, 2018.

JUD ASHMAN, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2016, and the same was APPROVED, by the Mayor and City Council of the City of Gaithersburg, on this ____ day of _____, 2018. This Ordinance will become effective on the ____ day of _____, 2018.

Tony Tomasello, City Manager