

MEMORANDUM

TO: Mayor & City Council

VIA: Tony Tomasello, City Manager

FROM: Alyssa Roff, Transportation Planner

RE: Proposed ordinance changes to Chapters 19 and 20

Date: October 25, 2018

Background

Staff is bringing forward the proposed ordinance amendments to Chapter 19 and Chapter 20 of the City Code to update the City's Road Code. The proposed amendments include deleting the City's existing Road Code requirements found in Chapter 19, Article II and instead reference the updated criteria in a separate Road Code regulation. Further, the amendments to Chapter 19 clarify applicability, define paving and construction requirements, and outline waiver procedures. Amendments to Chapter 20 mainly correct or revise cross references and terminology related to the changes to Chapter 19. The proposed amendments provide consistency in the City Code and will enable the City's Road Code to provide safer and more effective roadways. Staff introduced the proposed ordinance amendments to Council on Oct 15, 2018.

Current Code

The current Road Code, as defined in Chapter 19, Article II of the City Code, contains classifications and minimum requirements for the City's roadways. These largely reflect an auto-centric philosophy in roadway design and do not adequately serve other users within the right-of-way. The current Chapter 19 also references Montgomery County's Road Code as noted in § 19-15 – "road design criteria shall conform to the most recent Montgomery County Road Code, as amended." The reference to the County Road Code clearly states that the City automatically adopts the County's most recent Road Code without review. The County's Code reflects County roadways priorities which may or may not align with the needs of the roadway users within the City.

The City has not approved or built any roads to the current standards since the 1980s. Instead, projects have received approval through Road Code waivers. However, there is not a codified waiver process or approval provisions necessary for granting such waivers. Under the current code as noted in §19-15 Council may issue waivers by resolution in order to comply with the requirements or intentions of Chapters 8 "Erosion and Sediment Control and Stormwater Management," 22 "Trees and Forest Conservation," and 24 "Zoning" of the City Code. This does not provide guidance for how the waiver process functions or the necessary findings to determine

if a waiver should have approval. As a result, justification for approving or denying waivers reflect arbitrary reasoning, such as measuring the conformance to the “intent” of the other chapters. Under the current waiver provision, roads are not built to any consistent standard as evident by the variety of roadway designs throughout the City.

The current roadway design standards in Chapter 19 only apply to public roads owned and maintained by the City; county, state roads, and federal highways conform to their own standards and requirements. Private roads are not required to conform to the City’s standards or classifications and as a result privately owned roadways within new developments, with the exception of those in the MXD zone, may not reflect a consistent design standard.

The current Chapter 20 contains the cross references and terminology related to the existing City Road Code. These references mainly note specific articles or sections of Chapter 19 which are restrictive should any changes to Chapter 19 take place. Chapter 20 also references specific terminology that better suits the intent of Chapter 19. These include notes on street design, dimensional requirements, street type definitions, and the need to comply with Montgomery County street profile standards.

Proposed Amendments

Staff’s is proposing amendments to Chapters 19 and 20 of the City Code that will:

- Move the updated Road Code classifications and minimum requirements to a separate regulation;
- Establish that public and privately-owned roads must conform to the same updated standards of the Road Code regulation;
- Remove the reference stating road design criteria must conform to the most recent Montgomery County Road Code;
- Codify the waiver process and establish necessary findings for approval;
- Amend Chapter 20 *Subdivision*, to correct cross references and terminology and align with the revised Chapter 19; and
- Minor Housekeeping items in both Chapters 19 and 20.

The proposed amendments to Chapter 19 mainly reflect the rearrangement of sections in Article II, which focus on §§19-14 through 19-17. Amendments to §19-14 remove the current Road Code minimum design requirements. Instead, this section defines the “Acceptance of projects and release from bonds” relating to road construction found currently in §19-16. Amendments to §19-15 remove the waiver description, remove the reference stating road design criteria must conform to the most recent Montgomery County Road Code, and add standard details relating to sidewalks, paving, as well as shared use/bike paths. Amendments to §19-16 remove the “Acceptance of projects and release from bonds” related to road construction and then establishes that public and privately owned roads must conform to the requirements of the Road Code regulation and the standards of §19-15. This codifies the authority to establish the Road Code regulation which outlines updated street design requirements and classification. Section 19-17 removes the Road classifications table and establishes the waiver process and the findings necessary for approval.

The new requirements for waivers align with the intent of the new road code, while incorporating existing waiver requirements. The amendment to Article III removes the current amount for the application filing fee and establishes that City Council set the fee by resolution. Additionally, minor housekeeping items in Chapter 19 include the update of terminology and to correct cross references.

The proposed amendments to Chapter 20 correct cross references and changes in terminology in order to align with the proposed amendments to Chapter 19 and the City's Road Code regulation. Specifically, the amendment to §20-60 removes the reference that street profile plans must conform to the Montgomery County's standards in order to be consistent with Chapter 19. Updates to definitions, and requirements for road and street plans reflect the information in the updated Road Code regulation. References to specific sections or articles in Chapter 19 are removed and now only reference Chapter 19. Staff is also taking the opportunity to make minor changes for housekeeping purposes.

With the adoption of these ordinance changes, all future and retrofitted development must conform to the classifications and requirements of the forthcoming Road Code regulation. The new Road Code will not void existing plan approvals or road designs and would only apply to new roads proposed as part of future development plans. It is important to note that retrofitted roads would also conform to the Road Code regulation to the greatest extent possible.

Code Changes

The following is a summary of Staff's recommended changes to Chapter 19, listed by section:

§ 19-8

- Change "road construction" to "road design and construction" in order to include other aspects of the Road Code regulation such as typologies and traffic calming best practices
- Add "for all private and public roads other than county or state or federal highways" to establish that all public and privately owned roads must conform to the same Road Code criteria. Under the current code only public roads at the City level must do so.

§ 19-9A (c)

- Add "sections 20-19A" to cross reference back to Chapter 20
- Change "20-62(j)" to "20-62 A" to cross reference back to Chapter 20
- Add "road design" to "right-of-way standards" in order to include other aspects of the Road Code such as typologies and traffic calming best practices

§ 19-10

- Change "an inspection and engineering" to "a permit and application"

§ 19-11

- Replace “an inspection and engineering fee” with “a permit fee”
- Replace “city council “with “city manager”

§ 19-12

- For (c) replace “no extension shall be granted [...] pursuant to section 19-13” with “The permit must be kept in force until such time as all work has been completed, inspected, approved, and accepted by the city.”
- For (g) remove “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.”;
- For (g) replace “The city shall issue [...] this article shall not apply”; with “A copy of the city permit and approved construction and site plans must be kept on-site at all times”
- For (j) replace “council” with “city manager”

§ 19-14

- Remove all content related to “Road classification and minimum requirements”; the Road code regulation will outline the updated information.
- This section will now outline “Compliance with Chapter 19, Article II (Road Construction); acceptance of projects and release from bonds” taken from § 19-16. Add information from § 19-16 “All permittees and their agents and assignees shall comply with all applicable provisions of Chapter 19, Article II of the 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.”

§ 19-15

- Remove reference to “road design criteria” instead the Road Code regulation will detail all road design criteria.
- Replace “Montgomery County Road Code” with “Montgomery County Department of Public Works and Transportation Design Standards.” Roadways within the City may still use County standards for the paving and construction of roadways; however, the design criteria will refer to the City’s Road Code regulation.
- Remove “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 254. “Zoning.”” These requirements, in addition to the updated waiver information, is moved to § 19-17.

- For (a) replace “Montgomery County Road Code” with “Montgomery County Department of Public Works and Transportation Design Standards” Roadways within the City may still use County standards for the paving and construction of roadways;
- For (d) add “Standard Details will require an additional four-inch layer of graded aggregate base (GAB) to stabilize the soil subgrade as per the”
- For (f) remove “on the respective paving sections of the road classification table”; add “within the requirements set forth in right-of-way, road design and traffic calming standards (Road Code) adopted by regulation.” And remove “stone” from the aggregate base (GAB)
- For (f) change “Montgomery County” to “Montgomery County Department of Public Works and Transportation Design Specifications”
- For (g) remove “her authorized representative” from “the city manager or her authorized representative”
- Add “(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 1 ½ inch bituminous concrete surface course, 2 ½ - 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.” Some of the typologies for the new Road Code includes shared use paths for bicyclists and pedestrians, this provides construction details specific to these paths.

§ 19-16

- Remove content related to “Compliance with articles; acceptance of projects and release from bonds” Section 19-14 outlines this information.
- Add information relating to “Road classification and minimum requirements” stating “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.”

§ 19-17

- Remove the “Road classification table” the Road Code regulation outlines the updated information.
- Add information related to “Deviations from Standards and Road Code” stating “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 public interest, reflect the land use context, and that requirements for safety, function, fire protection, multi-modal needs, and maintainability are fully met.”

Under the current City Code waivers to paving materials and road design criteria can be issued by resolution of City Council so long as they meet the requirements or intent of Chapter 8, Chapter 22, or Chapter 24 of the City Code. The amendments provide more clarity for the waiver process and evidence needed for deviating away from the criteria of the Road Code

- Add information outlining specific waiver findings necessary for approval: “The city council may grant such waivers by resolution upon the findings that:
 1. There are existing physical limitation 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 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.”

§ 19-27

- Replace “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.” With “a fee in such amount as shall be established by the city council resolution.”

The following is a summary of Staff’s recommended changes to Chapter 20, listed by section:

§ 20-1

- Change “Regulation” to “Ordinance”

§ 20-2

- Remove “1996.Art. 66B, § 5.01 through 6.03” add “Land Use Article, §§ 5-101 through 6-204”
- Change “conditions” to “requirements or restrictions”
- Remove “section 19-7 through section 19-17” and replace with “Chapter 19”; any reference to specific sections in Chapter 19 will now only reference Chapter 19 so that any future change to chapter 19 will not impact the intent of Chapter 20.

§ 20-3 Purpose of chapter

- (d) add “utilities, and similar infrastructure benefitting the public”
- (e) add “utility”
- (n) add “utilities”; remove “public” and adds “utilities, stormwater systems”

§ 20-4 Definitions

- For Alley remove “other than a street” and add “and designed for extremely slow speeds”; the changes to this definition align with the Alley typology in the Road Code regulation.
- For Comprehensive plan remove “1957, as Article 66B” and replace with “the Land Use Article”
- For Conservation area remove “either adjacent to a stream or within a stream valley, shown as a park or conservation areas and” also remove “on the comprehensive plan for the city, or” and change “contain to “contains”
- For Cul-de-sac remove “minor”; updated terminology - the Road Code does not classify roads as minor.
- For Lot, corner remove “where the interior angle of the intersection does not exceed one hundred thirty five (135) degrees and a minimum of seventy (70) degrees” replace with “as specified in Chapter 24 of this Code”
- For Minor subdivision add “correction”
- For Parcel add “with boundaries that are not included in a recorded plat of a subdivision”
- For Planning Commission add “of Gaithersburg”
- For Plat add “physical print of the subdivision” replace “Article 66B” with “the Land Use Article of the Maryland”
- For Rode Code replace “stated” with “required”;
- For the definition of Street add “public or private”; public and privately owned roads will now conform to the same standards in the Road Code regulation.
- For the definition of street add “bicycle” and add “not sited within a right-of-way”;

§ 20-5

- Add “(d) Unplatted parcels or tracts requiring the issuance of a building permit, subject to the exceptions of §20-73 of this Code”

§ 20-9

- Add “environmental standards for development regulations”

§ 20-10

- Add “Sample”

- Remove “Article VI, Section 20-50” and replace with “Article VIII, Section 20-62 (d)”

§ 20-16

- Remove “Article II of” from “Article II of Chapter 19”; any reference to specific articles in Chapter 19 will now only reference Chapter 19 so that any future change to Chapter 19 will not impact the intent of Chapter 20.
- Change “chairman and vice-chairman” to “chair and vice-chair”

§ 20-20

- Remove “except as approved by the traditional neighborhood design option”;
- For (b) change “The proposed plan” to “A proposed subdivision plan”
- For (d) replace “residential secondary streets” with “residential streets”; this change meets the typologies in the Road Code regulation.
- For (e) replace “normally” with “necessarily”;
- For (e) Remove “particularly commercial or industrial development, or when using the traditional neighborhood development (TND) option”;
- For (e) Change the minimum right-of-way width of Alleys from “twenty six (26) feet” to “twenty (20) feet”; this change conforms to the requirements in the Road Code regulation.
- For (g) replace “structural standards or a tertiary road” with “the standards defined in Chapter 19 of this Code”; privately owned streets must now conform to the City’s Road Code design standards referenced in Chapter 19. This chapter also outlines paving and construction requirements.
- For (i) change “No street names shall be used which have not been approved by the city planning commission” to “All street names must be approved by the city planning commission”
- For (k) remove brackets around “Subdivider or developer responsibility”

§ 20-23

- For (2) change “path shall be located within the right-of-way” to “paths may be allowed in the right-of-way”; remove “determined by the planning commission” and replace with “in accordance with Chapter 19 of this code.” The new Road Code details where bicycle facility are to be placed in the right-of-way, if required, and will not need planning commission to determine the placement in order to be installed in the right-of-way.
- For (3) remove “and constructed to road construction code standards” and remove “upon recommendation of the public road agency concerned”

§ 20-31

- Remove “and engineering” from “department of public works and engineering”

§ 20-33

- For (b) (4) General Considerations replace “code” with “standards of Chapter 19”; standards for road construction are outlined and referenced in Chapter 19.

§ 20-34

- For (a) (5) Plat Correction change “to correct inaccurate” with “to correct or update inaccurate”
- For (a) (8) Plats covering donations or gifts of land change to “Plats covering right of way dedications, easements for public benefit, or donations or gifts of land” add “right of way dedications, easements for public benefit, or” and add “government body or governmental instrumentality”
- For (b) (c) remove brackets around “Minor Subdivision; resubdivision”
- For (b) (d) remove brackets around (All zoning requirements must be satisfied”

§ 20-37 (c)

- Remove “and engineering” from Department of public works and engineering”
- Remove “Article II” Article II of Chapter 19” any reference to specific articles in Chapter 19 will now only reference Chapter 19 so that any future change to Chapter 19 will not impact the intent of Chapter 20.

§ 20-49

- Add “subject to the provisions of Section 20-38”

§ 20-52

- Remove content related to “Limitations on issuance of building permits” but reserved section for future use.

§ 20-58

- Remove “Article II of” from “Article II of Chapter 19”; any reference to specific articles in Chapter 19 will now only reference Chapter 19 so that any future change to Chapter 19 will not impact the intent of Chapter 20.

§ 20-60

- Remove reference to the “standards of Montgomery County” replace with “the standards of Chapter 19 of this Code.

§ 20-61

- Remove “Article II of” from “Article II of Chapter 19”; any reference to specific articles in Chapter 19 will now only reference Chapter 19 so that any future change to Chapter 19 will not impact the intent of Chapter 20.

§ 20-62

- For (b) change “Existing frontage roads” to “Existing roads fronting lots”. This change in terminology creates less confusion, a typology in the new Road Code is “frontage road” which has a separate function than the one described.
- For (j) replace “section 19 9A” with “Chapter 19”; any references to specific sections in Chapter 19 will now only reference Chapter 19 so that any future change to chapter 19 will not impact the intent of Chapter 20.

§ 20-73

- For (a) replace “have” with “has”; replace “plat books” with “Land Records”
- For (b) change “A building permit may not be approved” to “A building permit must not be approved”;
- For (b) replace “except those strictly for agricultural use,” with “where such improvement is located”;
- For (b) remove “which”; remove “except as follows” replace with “Provided, however, and notwithstanding anything to the contrary stated within subsection (b), a building permit may be issued for the following:”;
- For (b) add (4) A building or structure used primarily for agricultural purposes”

§ 20-82

- Replace “Article 23A” with “the Local Government Article”