

MEMORANDUM

January 19, 2022

TO: Transportation and Environment Committee

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 9-21, Streets and Roads – Sidewalk Snow Removal- Amendments

PURPOSE: Worksession – Committee to make recommendations

Expected Attendees

Emil Wolanin, Director of Department of Transportation

Hannah Henn, Deputy Director of Department of Transportation

Bill 9-21, Streets and Roads – Sidewalk Snow Removal- Amendments, sponsored by Lead Sponsor Council Vice-President Glass and Co-sponsors, Councilmembers Reimer, Katz, then Council President Hucker, and Councilmember Navarro, was introduced on February 23, 2021. A public hearing was held on March 16, 2021, with 5 speakers.

Bill 9-21 would define certain terms relating to sidewalks, establish an exemption for certain property owners who are generally required to remove snow and ice from private property, and require removal of snow and ice by the County from additional sidewalks and paths.

PURPOSE

The purpose of this bill is to increase safe access and passage for pedestrians when after major winter storms certain sidewalks in the County become impassable because State and County's snowplows deposit large amounts of snow on the sidewalks. The sidewalks blocked by accumulated snow pose a public safety hazard and impede a pedestrian's ability to access bus stops, metro stations, health-facilities, retail stores, or places of employment.

BACKGROUND

The Council previously enacted Bill 21-14, Roads and Streets - Snow Removal on Sidewalks sponsored by Councilmember Reimer and Navarro in 2014, which established the requirement for the Executive to develop a County Sidewalk Snow Removal Plan.¹ Section 49-17(h) of the County Code provides the plan must include, the following:

- (1) digital map of the County that shows who is responsible for clearing snow and ice on each sidewalk in the County;
- (2) "major storm event" communications plan that addresses notice to County residents of a major storm event and the sidewalk snow and ice removal requirements in this Section;
- (3) targeted public education campaign about sidewalk snow and ice removal for owners of property in the County;
- (4) designation of pedestrian priority routes for targeted education and increased snow and ice removal enforcement;
- (5) public education campaign about how to request enforcement of this Section;
- (6) plan to provide extended hours for County personnel who receive snow and ice removal complaints during a major storm event;
- (7) plan for removal of snow and ice on publicly owned property; and
- (8) plan for trash removal during a major storm event.

Currently, the County clears over 60 miles of sidewalks in urban districts where there is no adjacent private property or commercial property owner. Bill 9-21 would expand the snow clearing coverage to include the County's Equity Emphasis Areas (EEAs) along certain arterial roads and non-buffered sidewalks that front a private property.

An Equity Emphasis Area is defined by the Metropolitan Washington Council of Government (MWCOC) are locations within the U.S. Census tract-level data to identify communities with high concentrations of low-income individuals and/or racial and ethnic minorities.² It is a tool where key stakeholders use the data to make informed decisions related to prioritizing and investing in underserved communities and disproportionately impacted populations. There are 49 of the 351 EEAs identified in Montgomery County with a total population of 254,559 people.³ The Equity Emphasis Areas include but are not limited to the communities of Long Branch, White Oak, Fairland/Briggs Chaney, Wheaton, the Viers Mill Road corridor, much of Gaithersburg, and portions of Montgomery Village and Germantown.

This Bill would require the County to clear an additional 40 more additional miles of sidewalks located in EEAs, which are directly next to the roadways that create a significant safety issue because snow piles force pedestrians to walk onto busy arterial roads.

SPECIFICS OF THE BILL

Bill 9-21 would amend Section 49-17 of the Code, which contains certain requirements for a property owner to remove snow and ice from sidewalks, walkways, shared-use paths, and parking areas 24 hours after a winter snowstorm. Specifically, the Executive must implement and require the County's Department of Transportation to remove or cause to be removed snow and ice from orphan sidewalks.

² Equity Emphasis Area: Geographic Specificity to Aid Actions. <
<https://www.mwcog.org/documents/2021/06/09/equity-emphasis-areas-geographic-specificity-to-aid-actions-equity/>>

³ Equity Emphasis Area: A tool to prioritize and invest in communities.
<https://www.mwcog.org/newsroom/2021/09/24/equity-emphasis-areas-a-tool-to-prioritize-and-invest-in-communities--equity/>

An orphan sidewalk can abut either a County or State road and be parallel to either a: (1) vacant lot; (2) overpass with no adjacent private or commercial property; or (3) private property without direct access to the owner's property and is separated from the sidewalk by a fence, guardrail, or change in the elevation grade. This would create an exemption for property owners and release their responsibility to clear certain sidewalks.

Further, the Bill would also require the County to clear non-buffered sidewalks or paths in the nineteen (19) busiest arterial roads that lie within the County's equity emphasis area. A non-buffered sidewalk is classified as a sidewalk along a roadway with no physical separation between the sidewalk and the road edge.

SUMMARY OF THE PUBLIC HEARING

All 5 speakers supported Bill 9-21 at the public hearing held on March 16. Hannah Henn, Deputy Director of Policy for the Department of Transportation, testified on behalf of the County Executive and suggested an amendment to clarify the circumstances or the reason when to prioritize certain sidewalks for the Executive's snow plan (©21). Shruti Bhatnagar, the Chair of Sierra Club Montgomery Group, testified this Bill aligns with Sierra Club's goals of equity, supporting Vision Zero to improve pedestrian safety and ensure access to public transit (©23). Allison Gillespie testified to the challenges with persons with disabilities or wheel-chair users who face a barrier accessing roadways or bus stops because of large snow piles or icy lanes (©19).

ISSUES FOR THE COMMITTEE'S DISCUSSION

1. What is the fiscal impact for the County to expand its snow removal operation for the nineteen (19) additional arterial roads and non-buffered sidewalks?

According to OMB, for the 2020-21 winter season, the County's Department of Transportation (MCDOT) spent approximately \$670,000 removing snow from approximately 60 linear miles of sidewalk for an estimated \$11,170 per linear mile (©16).

The County would be responsible for snow removal of an additional 40 linear miles of sidewalks under the proposed terms of the Bill. It is estimated that this Bill has no fiscal impact on revenues. Based on the experience 2021 past winter season, it is estimated that the cost to implement this Bill is an additional \$446,800 (©16). Of course, if there are winter storms that exceed the typical average amount per year then costs may be higher than average. Typically, MCDOT would contract out services for snow and ice removal, and increasing coverage is feasible (©16).

2. What happens to the property owner's responsibility to clear sidewalks?

Section 49-17 of the County Code requires property owners who own, lease, or manage a private property, including any walkway in the public right-of-way, to remove snow and ice from sidewalks that are contiguous to their property within 24 hours after precipitation ends. Currently, the County takes primary responsibility for clearing snow and ice from County roads, but it does not clear snow and ice from sidewalks along these roads.

Bill 9-21 would require the Executive to include in its snow plan for the County's Department of Transportation to remove snow from non-buffered sidewalks on arterial roads in MWCOG's identified [Equity Emphasis Areas](#) if three inches or more has accumulated after a winter storm. This would be an extension of MCDOT's current maintenance responsibilities for sidewalks on county and state roads that include repairs, mowing and brush clearing, etc. Sidewalks on arterial roads that have a grass strip or other buffer between the road and the walkway would not be part of this legislation, only those within an arm's reach of the road.

A property owner would no longer have the responsibility to clear snow or icy paths of a non-buffered or orphan sidewalk. The County would be responsible and would be exposed to any liability for failure to clear those sidewalks in a timely manner. It may be important that MCDOT has an outreach and education to ensure the public understands the legislation and how it would be applied differently to private property owners.

3. Amendments suggested by the Office of the County Attorney.

a. Clarify the definition of orphan sidewalk.

Amend lines 46, as follows:

Orphan Sidewalk means a sidewalk either abutting a State or County road
[[that may include any of the following areas]] and be located:

- (i) adjacent to a vacant lot;
- (ii) on an overpass with no adjacent commercial or residential property adjoined; or
- (iii) behind a residential or commercial property that is not directly accessible from the owner's property and is separated from the sidewalk by a fence, guardrail, or change in elevation grade.

Decision Point: Whether to adopt clarifying amendments for the definition "orphan sidewalks"?

4. What is the Racial Equity and Social Justice Impact and Economic Statement for Bill 9-21?

In the Racial Equity and Social Justice Impact Statement (RESJ), the Office of Legislative Oversight (OLO) has stated that the bill is likely to have a favorable impact and recommended amendments (©13). Further, the RESJ report indicated that walkers and public transit riders who are predominantly Black or low-income residents would disproportionately benefit from the expanded County snow removal services under Bill 9-21. The Economic Impact Statement states the Bill would have a modest, positive impact on economic conditions in the County (©13).

Next Step: Whether the T&E Committee recommends enactment of Bill 9-21, as amended.

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Bill No. 9-21
Concerning: Streets and Roads –
Sidewalk Snow Removal-
Amendments
Revised: 3/11/2021 Draft No. 5
Introduced: February 23, 2021
Expires: August 23, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council Vice President Glass
Co-Sponsors: Councilmembers Riemer, Katz, Hucker and Navarro

AN ACT to:

- (1) define certain terms relating to sidewalks;
- (2) establish an exception to the requirements for removal of snow and ice on private property;
- (3) require removal of snow and ice by the County from certain sidewalks and paths; and
- (4) generally amend the law concerning the removal of snow and ice from certain sidewalks and paths in the County.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-17

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

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 49-17 is amended as follows:

49-17. Accumulation of snow and ice on property prohibited.

(a) *Legislative Findings.*

(1) During significant winter storm events, Montgomery County's sidewalks often become impassable and covered in piles of snow that are pushed aside from the road as a result of County and State snowplows. The scope of the problem is prevalent on Montgomery County's busiest roads, where sidewalks are often within an arm's reach of traffic.

(2) These blocked sidewalks often persist for days following the end of a snowstorm, creating a significant pedestrian safety hazard that often forces pedestrians to walk in a lane with oncoming traffic.

(3) County law allocates the responsibility of property owners to clear snow on a public sidewalk fronting their property within 24 hours of the end of snowfall. However, such clearing rarely occurs due to a variety of reasons, including the difficulty of removing the large piles of compacted snow and ice created by plow trucks.

(4) The County, in its current operation, clears sidewalks in urban districts and approximately sixty (60) miles of sidewalks with no adjacent residential or commercial property owner outside of such areas.

(5) Snow-covered and icy sidewalks adversely affect essential workers and commuters, who often travel by foot or public transportation, and must walk along high-traffic roads to get to bus stops and retail stores.

(6) It is in the best interest of the County to adopt fair, reasonable and equitable legislation to address safety hazards and increase walkability access on sidewalks for pedestrians during winter storms.

[(a)] (b) (1) Definitions. In this Section:

(A) *Commercial property* means real property that either:

- (i) is not designed for or intended for human habitation; or
- (ii) contains a multi-family dwelling of four or more units.

(B) *Residential property* means real property containing either:

- (i) a single family dwelling; or
- (ii) a multifamily dwelling of three or fewer units.

(C) Department means the Department of Transportation.

(D) Non-Buffered Sidewalk means a sidewalk along a roadway that does not contain a grass strip or other physical separation between the sidewalk and the adjacent curb or road edge.

(E) Orphan Sidewalk means a sidewalk either abutting a State or County road that may include any of the following areas:

- (i) adjacent to a vacant lot;
- (ii) an overpass with no adjacent commercial or residential property adjoined; or
- (iii) behind a residential or commercial property that is not directly accessible from the owner's property and

is separated from the sidewalk by a fence, guardrail,
or change in elevation grade.

- (2) A person is responsible for removing snow and ice on any sidewalk, other walkway, shared use path, or parking area on or adjacent to property that the person owns, leases, or manages, including any walkway in the public right-of-way, to provide a pathway wide enough for safe pedestrian and wheelchair use. For purposes of this Section, commonly owned property between a single-family residential lot and a common walkway is considered part of the lot if the intervening common property includes a walkway or driveway that serves only that lot.
- (3) Except as provided in paragraph (5), each owner, tenant, or manager is jointly and severally responsible for clearing snow and ice from the property and complying with Section 31-26A(d).
- (4) The requirements of this Section do not apply to:
 - (A) an unpaved walkway;
 - (B) a private walkway or parking area on the property of a single-family residence;
 - (C) a public walkway behind a single-family residence that is not directly accessible from the owner's property; [or]
 - (D) a walkway that:
 - (i) is at least 25 feet from vehicular traffic;
 - (ii) serves only pedestrian destinations that are also accessible by another walkway that this Section requires to be cleared;

(iii) was not routinely cleared of snow and ice after August 1999; and

(iv) is not the primary route for pedestrian access to a winter recreational facility open to the public; or

(E) any non-buffered sidewalk or path as specified under Section 49-17(j), regardless if private property is fronting or abutting the sidewalk.

(5) (A) An individual who lives in a multi-family residential property is not responsible for removing snow and ice from a common walkway or parking area.

(B) A homeowners' association, as that term is used in State law, is not responsible for removing snow and ice from a walkway adjacent to a single-family residential lot, if the lot owner is responsible under paragraph (1) for removing snow and ice from that walkway.

[(b)] (c) * * *

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) * * *

[(f)] (g) * * *

[(g)] (h) * * *

[(h)] (i) *Sidewalk Snow Removal Plan.* The Executive must develop, update, and publish on the County internet site a sidewalk snow removal plan allocating available resources in a fair and equitable manner throughout the County that includes a:

- (1) digital map of the County that shows who is responsible for clearing snow and ice on each sidewalk in the County;
- (2) “major storm event” communications plan that addresses notice to County residents of a major storm event and the sidewalk snow and ice removal requirements in this Section;
- (3) targeted public education campaign about sidewalk snow and ice removal for owners of property in the County;
- (4) designation of pedestrian priority routes for targeted education and increased snow and ice removal enforcement;
- (5) public education campaign about how to request enforcement of this Section;
- (6) plan to provide extended hours for County personnel who receive snow and ice removal complaints during a major storm event;
- (7) plan for removal of snow and ice on publicly owned property:
 - (A) at bus-stops and Metro stations;
 - (B) near schools;
 - (C) along State highways;
 - (D) along the highest priority pedestrian routes;
 - (E) in urban districts; and
 - (F) used for hiker-biker trails; and
- (8) plan for trash removal during a major storm event.

(j) Sidewalk Snow Removal Required. The Executive must implement and require the Department to remove or cause to be removed snow and ice accumulation that exceeds three (3) inches or more from the last day of precipitation within the following designated areas:

- (1) orphan sidewalks; and

- (2) non-buffered sidewalks or paths within the nineteen (19) arterial roads prescribed below:
- (A) MD-187 Old Georgetown Road between Arlington Road and Democracy Boulevard;
 - (B) MD-355 Wisconsin Avenue between Chestnut Street and Jones Bridge Road;
 - (C) Jones Bridge Road from MD-355 to Jones Mill Road[.];
 - (D) Middlebrook Road between Waring Station Road and MD-118;
 - (E) MD-97 Georgia Avenue between Blueridge Avenue and Glenallen Avenue;
 - (F) MD-97 Georgia Avenue between Hewitt Avenue and Bel Pre-Road;
 - (G) MD-185 Connecticut Avenue between the Matthew Henson Trail and MD-97;
 - (H) Randolph Road between Middlevale Lane and Rock Creek;
 - (I) MD-586 Veirs Mill Road between Galt Avenue and the Matthew Henson Trail;
 - (J) MD-320 Piney Branch Road between Sligo Creek and the Prince George's County line;
 - (K) MD-193 University Boulevard between Carroll Ave (MD-195) and the Capital Beltway (I-495);
 - (L) MD-193 University Boulevard between Arcola Avenue and Amherst Avenue;
 - (M) Flower Avenue between MD-320 and East Wayne Avenue;
 - (N) Carroll Avenue between MD-193 and MD-320;

- 154 (O) MD-650 New Hampshire Avenue between the Prince
 155 George's County line and Lockwood Drive;
- 156 (P) Lockwood Drive between MD-650 and 11431 Lockwood
 157 Drive;
- 158 (Q) Tech Road between Old Columbia Pike and Broadbirch
 159 Drive;
- 160 (R) Old Columbia Pike between Tech Road and Briggs Chaney
 161 Road; and
- 162 (S) Briggs Chaney Road between Robey Road and U.S. 29.

LEGISLATIVE REQUEST REPORT

Bill 9-21

Streets and Roads – Sidewalk Snow Removal- Amendments

DESCRIPTION:	Bill 9-21 would: <ul style="list-style-type: none">• define certain terms relating to sidewalks;• establish an exception to the requirements for removal of snow and ice on private property;• require removal of snow and ice by the County from certain sidewalks and paths; and• generally amend the law concerning the removal of snow and ice from certain sidewalks and paths in the County.
PROBLEM:	There are certain snow-covered sidewalks after a major winter storm that becomes impassable and poses a safety hazard for pedestrians.
GOALS AND OBJECTIVES:	The goal of this bill is to require the County to expand its existing scope and remove snow and ice from certain sidewalks.
COORDINATION:	Department of Transportation
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	Office of Legislative Oversight
EVALUATION:	To be provided.
EXPERIENCE ELSEWHERE:	Unknown
SOURCE OF INFORMATION:	Ludeen McCartney-Green, Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Applies only to sidewalks and paths within the County.
PENALTIES:	Not applicable.

Economic Impact Statement

Office of Legislative Oversight

BILL 9-21 Streets and Roads – Sidewalk Snow Removal – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 9-21 would have a modest, positive impact on economic conditions in the County.

BACKGROUND

During major winter storms, County and State snowplows push aside snow onto stretches of sidewalks in the County. Snow-covered sidewalks often become impassable and pose a safety hazard for pedestrians who are forced to walk along roads. Bill 9-21, introduced on February 23, 2021, would address this problem by expanding the scope of the County's snow and ice removal responsibilities. In particular, the bill would require the Department of Transportation (DOT) "to remove or cause to be removed snow and ice accumulation that exceeds three (3) inches or more from the last day of precipitation" in designated areas. The areas include "orphan sidewalks" and "non-buffered sidewalks or paths within the nineteen (19) arterial roads" specified in the bill. In expanding the scope of the County's responsibilities, Bill 9-21 would also make an exception to snow and ice removal requirements on private property and generally amend County law concerning snow and ice removal from certain sidewalks and paths in the County.¹

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

Winter storms can cause disruptions to traffic, communication, power, and other utilities.² These disruptions create substantial economic costs for certain businesses and workers. According to an IHS Global insight study, commissioned by the American Highway Users Alliance, the direct economic effects of snowstorm disruptions include lost sales to businesses and wages for non-salaried employees. These effects are disproportionately felt by businesses and workers in the retail industry.³

By making sidewalks passable in designated areas, Bill 9-21 could improve customer and employee access to businesses during winter storms, thereby potentially preventing lost sales and wages. While data limitations prevent estimating the magnitude of the bill's impact on sales and wages, OLO assumes that the impact would be modest on an annual basis. The reason being that impassable sidewalks account for only a small fraction of the total costs of winter storm disruptions to

¹ See sections "Legislative Findings," "Definitions," and "Sidewalk Snow Removal Required" in Montgomery County Council, Bill 9-21, Streets and Roads – Sidewalk Snow Removal – Amendments, Introduced on February 23, 2021, Montgomery County, Maryland. See Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2700_1_14238_Bill_9-2021_Introduction_20210223.pdf.

² Office of Emergency Management & Homeland Security, *Hazard Mitigation Plan*, September 2018, Montgomery County Government, Maryland, <https://www.montgomerycountymd.gov/OEMHS/Resources/Files/HMP2018-FinalPlan-FEMAApproved.pdf>.

³ IHS Global Insight, *The Economic Costs of Disruption from a Snowstorm*, February 24, 2014, <https://www.highways.org/2014/02/economic-impact-of-snowstorms/>.

Economic Impact Statement

Office of Legislative Oversight

businesses and workers. It is worth noting however that these potential costs are recurring. For this reason, any net income gains from preventing business sales and wage loss would accumulate over time.

VARIABLES

The primary variables that would affect the economic impacts of Bill 9-21 are:

- Average annual wage loss to residents caused by impassable sidewalks in designated areas;
- Average annual business sales loss caused by impassable sidewalks in designated areas; and
- Reduction in time in which sidewalks in designated areas are impassable.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organization

OLO believes that Bill 9-21 would have a modest, positive impact on some businesses in the designated areas, particularly retail businesses. To the extent that improving customer walkable access to businesses prevents reductions in sales, the bill would increase net business income. Improving walkable access may also prevent disruptions to the workforces. Moreover, by expanding the County's snow and ice removal responsibilities, it is possible that some businesses may experience a decrease in operating costs associated with sidewalk snow removal.

OLO does not believe that Bill 9-21 would impact the Council's other priority indicators, namely private sector capital investment, property values, taxation policy, economic development, and competitiveness.⁴

Residents

OLO believes that Bill 9-21 would have a modest, positive impact on some non-salaried employees of businesses in the designated areas. Improving walkable access to their place of employment businesses may prevent unwanted time off from work, thereby increasing net incomes.

QUESTIONS FOR CONSIDERATION

Not applicable

WORKS CITED

IHS Global Insight. *The Economic Costs of Disruption from a Snowstorm*. February 24, 2014.

⁴ For the Council's priority indicators, see Montgomery County Code, Sec. 2-81B. Economic Impact Statements, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894.

Economic Impact Statement

Office of Legislative Oversight

Office of Emergency Management & Homeland Security. *Hazard Mitigation Plan*. September 2018. Montgomery County Government, Maryland.

Montgomery County Code, Sec. 2-81B. Economic Impact Statements.

Montgomery County Council. Bill 9-21, Streets and Roads – Sidewalk Snow Removal – Amendments. Introduced on February 23, 2021. Montgomery County, Maryland.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 9-21: Streets and Roads- Sidewalk and Roads - Sidewalk Snow Removal – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 9-21 to favorably impact racial equity and social justice in Montgomery County.

BACKGROUND

On February 23, 2021, the Council introduced Bill 9-21; it aims to help reduce injuries to pedestrians who commute alongside roadways in Montgomery County by removing accumulated snow and ice from certain sidewalks. ¹ Bill 9-21 aligns with the County's *Vision Zero Initiative*, the plan to eliminate serious road injuries and traffic deaths in Montgomery County by 2030. ² The 2019 Montgomery County Police Department Annual Report indicates that there were 13 pedestrian fatalities in the County. ³

If enacted, Bill 9-21 will assign the Department of Transportation with removing snow and ice accumulation of three inches or more from approximately 60 miles of sidewalks along 19 specific roadways in the County that meet the following conditions:

- **Non-Buffered Sidewalks.** A sidewalk along a roadway that does not contain a grass strip or other physical separation between the sidewalk and the adjacent curb or road edge;
- **Orphan Sidewalk.** A sidewalk either abutting a State or County road, including an adjacent to a vacant lot and/or an overpass with no adjacent commercial or residential property adjoined; or
- **Behind a residential or commercial property** that is not directly accessible from the owner's property and is separated from the sidewalk by a fence, guardrail, or change in elevation. ⁴

If implemented, Bill 9-21 would make the following modifications to County Law:

- Define certain terms relating to sidewalks;
- Establish an exception to the requirements for removal of snow and ice on private property;
- Require removal of snow and ice by the County from certain sidewalks and paths; and
- Generally amend the law concerning the removal of snow and ice from certain sidewalks and paths in the County.

ANALYSIS OF DEMOGRAPHIC DATA

Understanding the impact of Bill 9-21 on racial equity and social justice requires an analysis of available data on the racial and ethnic composition of residents who typically use public transportation and/or walk to work. As shown below, the data indicate that Bill 9-21 will particularly benefit Black residents and low-income residents in the County.

Office of Legislative Oversight

March 11, 2021

RESJ Impact Statement

Bill 9-21

According to the 2019 American Community Survey (ACS), an estimated 81,686 residents in the County use public transportation to commute to work, and about 12,381 residents walk to their place of employment.⁵ Black residents are disproportionately represented among public transit users in the County. To illustrate, Black residents accounted for 52.4% of persons who used public transit to travel to work, whereas White residents accounted for 30.3% of transit riders, Latinx residents accounted for 11.8% of riders and Asian residents accounted for 7.6% of riders.⁶ As an indicator of walkers and public transit riders, these findings suggest Black residents will disproportionately benefit from expanded County snow removal services under Bill 9-21.

Data on public transit riders by income also suggest that low-income residents will disproportionately benefit from Bill 9-21 as well. As shown in Table 1, about 47% of Ride On users had annual household incomes less than \$30,000, according to a 2020 survey.⁷ As an indicator of walkers and public transit riders, these finding also suggests that lower-income earners will also disproportionately benefit from Bill 9-21.

Table 1: Ride On Ridership Household Income

Household Income	# of Responses	% of Responses
Less than \$20,000	2,483	27.3%
\$20,00 to \$29,999	1,760	19.4%
\$30,000 to \$49,999	1,755	19.3%
\$50,000 to \$74,999	1,052	11.6%
\$75,000 to \$99,999	687	7.6%
\$100,000 to \$149,999	701	7.7%
\$150,000 to \$199,999	400	4.4%
\$200,000 or more	249	2.7%
Total Responses	9,087	100.0%

Source: Ride On Montgomery County Transit, Public Participation Plan⁸

ANTICIPATED RESJ IMPACTS

Assuming that the accumulation of snow and ice on unattended sidewalks increases the likelihood of accidents along roadways, removing snow from sidewalks as required under Bill 9-21 should reduce the number of pedestrian accidents in the County. Given that Black and lower-income residents are the most likely to use sidewalks for access to public transportation, Bill 9-21 should disproportionately benefit Black and lower-income residents given their disproportionate use of public transportation. As such, OLO anticipates that Bill 9-21 will favorably impact racial equity and social justice in the County by improving pedestrian safety and commutes for residents who are most dependent on public transit: Black residents and low-income residents in these groups.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis rely on several information sources, including Census data, MCPD Reports, and County Council packets. OLO also reviewed two additional sources to understand pedestrian and public transit use trends related by race and ethnicity locally:

RESJ Impact Statement

Bill 9-21

- Vision Zero Initiative
- Public Participation Plan, Ride On Montgomery County

OLO also spoke with the Central Council analyst from the Transportation and Environment Committee for information.

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.⁹ OLO has determined that the key provisions included in Bill 9-21 adequately address RESJ in the County. Consequently, this RESJ impact statement does not offer amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Dr. Theo Holt, RESJ Performance Management and Data Analyst, drafted this RESJ statement.

¹ Montgomery County Council, Bill 9-21, Streets and Roads- Sidewalk and Roads - Sidewalk Snow Removal - Amendments, February 2021, Montgomery County, Maryland.

² Vision Zero, No Traffic Deaths by 2030 in Montgomery County, 2017, Montgomery County, Maryland.

https://www.montgomerycountymd.gov/visionzero/Resources/Files/Montgomery_20County_20Vision_20Zero_202_20Year_20Action_20Plan.pdf

³ MCPD policy, Planning & Quality Assurance Division, 2019 Annual Report on Crime & Safety, Montgomery County Department of Police, Montgomery County Maryland. [2019 MCPD Annual Report on Crime and Safety FINAL \(1\).pdf \(montgomerycountymd.gov\)](#)

⁴ Bill 9-21

⁵ American Community Survey (ACS) 2019, Montgomery County Employment Status

<https://data.census.gov/cedsci/table?q=montgomery%20county&t=Income%20and%20Poverty&d=ACS%205-Year%20Estimates%20Data%20Profiles&tid=ACSDP5Y2019.DP03>

⁶ Ibid

⁷ Ride On Montgomery County Transit, Public Participation Plan, July 2020, Montgomery County, Maryland.

<https://www.montgomerycountymd.gov/DOT-Transit/Resources/Files/Public%20Participation%20Plan%202020%20Draft%207-23-20.pdf>

⁸ Ibid

⁹ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Montgomery County, MD.

Fiscal Impact Statement
Bill 9-21, Streets and Roads – Sidewalk Snow Removal - Amendments

1. Legislative Summary

Bill 9-21 would define certain terms relating to sidewalks, establish an exception to the requirements for removal of snow and ice on private property and require removal of snow and ice by the County from certain sidewalks and paths. The Bill would require the County to remove snow and ice from orphan sidewalks and non-buffered sidewalks or paths within nineteen specified arterial roads.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

In the 2020-21 winter season, the Department of Transportation (DOT) spent approximately \$670,000 removing snow from approximately 60 linear miles of sidewalk for an estimated \$11,170 per linear mile.

The County would be responsible for snow removal of an additional 40 linear miles of sidewalks under the proposed terms of the Bill. It is estimated that this Bill has no fiscal impact on revenues. Based on the experience this past winter season, it is estimated that the cost to implement this Bill is an additional \$446,800.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

It is estimated that over the next six years this Bill would add \$2.7 million to sidewalk snow removal cost. However, that assumes current pay rates, the same number and severity of winter storm events in FY21, and no CPI adjustment.

FY22	FY23	FY24	FY25	FY26	FY27	TOTAL
\$ 446,800	\$ 446,800	\$ 446,800	\$ 446,800	\$ 446,800	\$ 446,800	\$ 2,680,800

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Construction of additional sidewalk may add to the County's responsibility and snow removal cost.

7. An estimate of the staff time needed to implement the bill.

No additional staff time will be required to implement this bill

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

There is currently about \$3.5 million appropriated in the Department of Transportation and \$2.9 million in the Climate Response Non-Departmental Account to cover storm response. In most years, a supplemental appropriation is required in the Spring to cover actual costs.

10. A description of any variable that could affect revenue and cost estimates.

The number and severity of winter storm events are impossible to predict. Costs could vary significantly from what was incurred in FY21.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The projection of sidewalk snow removal costs is difficult to project. The number and severity of winter storm events are unpredictable.

12. If a bill is likely to have no fiscal impact, why that is the case.

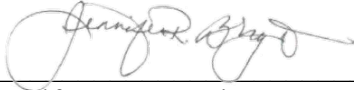
Not applicable.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Melissa Garner, Department of Transportation
Brady Goldsmith, Office of Management and Budget



Jennifer Bryant, Director
Office of Management and Budget

3/9/21

Date

Thanks for giving me the chance to speak today in support of this proposal. Although I volunteer with many organizations, today I am speaking as an individual and these opinions are my own.

Many of you know me as an outspoken advocate for neighborhoods in Silver Spring and Wheaton, and in particular for advocacy on Vision Zero, pedestrian and bike safety and walkable communities. I'm also a transit user, and once the pandemic passes, I'll be using Metro and buses to get to work again. I'm lucky enough to live close to a Metro station and dozens of bus stops.

I speak from first-hand experience: we need to stop treating our sidewalks as storage facilities for snow and start treating them as important links in our transportation network. They truly are arteries, just as the streets that they flank. If you are going to take a bus or train to work, you must be able to get to the stop safely every single day, all day and night. All too often, snow makes this impossible or dangerous.

This bill is great and I'm glad Councilmember Glass introduced it. It makes sense to start with equity areas because in those neighborhoods people often have no other option but transit for getting to school, work and the store. But I hope that in the future, we can expand this effort to include all sidewalks in urban locations. If we are going to reduce traffic and meet our climate change goals, we need people to see transit as a dependable method of travel. Snow should not be a reason one must buy a car in this county.

When it snows, plows make their way along the big arterial roads and push snow up on to the sidewalks. The snow and ice then form literal barriers to getting around.

During the winter, people are forced to walk in the lanes along side of cars on University Boulevard and Georgia Avenue in Wheaton with terrifying regularity. It is not unusual to see groups waiting for the bus while standing in icy lanes of oncoming traffic, simply because they can't get to the actual bus stop due to the piles of white stuff. I have seen people waiting for buses on top of snow piles that are three feet tall along Georgia. It is all incredibly dangerous. This is true when there's only a small amount of snow, but much much worse when the snow is deep and heavy.

This is a particular hardship for those with physical disabilities. I have even seen wheelchair users doing this in the middle of a storm when the snow was falling, and visibility was low. People who are blind depend on reliable sidewalk routes, but often encounter walls of snow in unexpected locations, making the route to work difficult, or even impossible. People who depend on mobility devices like wheelchairs depend on curb cuts and wide paths and can't make their way past if those are clogged with piles of snow. I have even seen wheelchair users doing this in the middle of a storm when the snow was falling and visibility was low.

This is shameful mismanagement of public infrastructure and the disabled community deserves better. They are taxpayers just like everyone else. They need to get to work, to visit their families, to be able to do their own shopping. Snow should not be a reason they can't live like any other adult in our community and do the things that all adults want and need to do every day.

We have made the transit investment, and we are starting to increase and improve our sidewalks. Now we must do the maintenance that makes them both reliable and viable. Sidewalks shouldn't be a "fairweather only" option.

Alison Gillespie

Silver Spring, MD

**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC ELRICH ON
EXPEDITED BILL 9-21 Streets and Roads – Sidewalk Snow Removal.**

MARCH 16, 2021

Good afternoon, Council President Hucker and members of the Council. I am Hannah Henn, Deputy Director for Policy for the Department of Transportation. I'm here today to testify on behalf of County Executive Marc Elrich on Bill 9-21, Streets and Roads – Sidewalk Snow Removal.

The County Executive supports the underlying objective of ensuring that sidewalks are cleared during and after snow and ice events to improve safety for pedestrians. Therefore, the focus of my testimony is to provide information for your consideration on potential complications, confusion, and costs the Executive Branch anticipates from the proposed legislation. Today I offer conceptual modifications and alternative approaches to achieve similar goals.

Complications

The bill picks winners and losers by specifying geographic limits at a moment in time . It is not clear from the bill how or why these routes, particularly State-maintained routes, were selected compared to other potential areas, such as MD 190/River Road in the Westbard area and MD 390/16th Street.

The language should be modified to define circumstances that call for County snow removal and the Executive Branch can then detail the locations and incorporate them as part of the mandated Snow Plan. This modified approach would allow for adjusting the limits in the future without requiring a code revision process. For example, if the upcoming Ride On Route Restructuring Study results in adjustments to bus stop locations, sidewalk snow clearing should be adjusted as well.

Confusion

We anticipate confusion among property owners because of the differential services proposed. There will be a need for education and outreach to provide clarity to property owners on snow clearing responsibilities. For the near term effort, we have attached legal analysis performed by the Office of the County Attorney that provides suggestions for clarifying language within the bill itself.

While Vision Zero philosophy calls for a proactive approach to safety improvements, the County has focused on a data-driven approach to direct spending to projects that maximize safety benefits to the public. Prioritizing sidewalk clearing may detract from projects and initiatives that would have a stronger relationship to pedestrian safety and have an impact every day of the year.

Costs

Sidewalk clearing by the Department of Transportation is a contracted operation, so we are capable of increasing coverage. Expanding the County's snow clearing responsibilities will require a significant increase in costs to the County and will likely prompt requests to expand County-provided sidewalk clearing further.

While the fiscal impact statement provided as an attachment to this testimony relies upon average costs over multiple years, we want to highlight that the upper range for these new areas of responsibility could cost over \$1 million if we were to experience a snow season similar that in 2016. Costs may also be higher than average if storm patterns are severe and concentrated enough to require snow removal by trucks.

Alternatives

The bill as currently drafted results in a significant expansion of County responsibilities to maintain state right of way. An alternative to having the County take on these costs would be to advocate for the State to take more responsibility for its roadways in a comprehensive and multimodal approach. Today, Montgomery County is responsible for all sidewalk maintenance and associated costs along State roads. Long term, we would encourage you to advocate for the State to be accountable for its entire right of way and provide safe infrastructure for all roadway users.

Other approaches might include developing a sidewalk snow removal program in certain areas of the County similar to the leaf collection program in which property owners who are within a determined area are assessed an annual fee into a financially self-supporting program.

The County might also develop a more structured volunteer snow removal program in which residents offer voluntary assistance or students earn service hours. Such a program could be offered across the entire County, resulting in broader benefits and flexibility.

We welcome the opportunity to discuss these concepts in more detail in committee. Thank you.



March 15, 2021

To
The Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

**Re: 9-21 – Streets and Roads – Sidewalk Snow Removal – Amendments,
Position: Support**

Dear Montgomery County Council members,

“Snow days” are a privilege not afforded to most people who work essential jobs, many of whom use transit to report to work. As county plows diligently clear roadways to allow cars and buses to safely pass, they unfortunately create new hazards in the large piles of compacted snow and ice they deposit onto adjacent sidewalks. In our focus to provide safe roads for cars and buses, we have ignored and made more unsafe the access to those buses for pedestrians. We need our actions to match our words and provide **equitable** services for all county residents, irrespective of their mode of mobility.

Sierra Club Montgomery County Group supports Councilmember Evan Glass’s Bill 9-21 – Streets and Roads – Sidewalk Snow Removal – Amendments, which proposes that, for snowfall events exceeding 3-inches, the County clear sidewalks along an additional 19 major traffic arteries.

This bill is aligned with Sierra Club's priority and Montgomery County's Vision Zero goal for pedestrian safety.

Today, MCDOT clears sidewalks in urban districts and about 60 miles of sidewalks outside these areas during heavy snow storms. This bill would add approximately 40 more miles of sidewalks. As an example, the two longest proposed corridors are heavily used transit-routes:

Randolph Rd (from John F Kennedy HS to Rock Creek)
About 3 miles long with 6 miles of sidewalk
72 bus stops along this route (Ride On = 39 stops, Metro = 33 stops)

Old Georgetown Rd (from Arlington Rd to Democracy Blvd)
About 3 miles long with 6 miles of sidewalk
51 bus stops along this route (Ride On = 20 stops, Metro = 31 stops)

While this bill would add to an already constrained county budget, these kinds of snow events have not been that frequent and the snow clearing work could be contracted out.



For reference, this chart shows the heaviest DC snowfall over the past 10 years.

Inches	Date	Inches	Date
0.2	Jan 18, 2020	5.9	Feb 13, 2014
8.3	Jan 13, 2019	1.4	Mar 25, 2013
4.1	Mar 21, 2018	0.6	Jan 21, 2012
1.5	Dec 9, 2017	5.0	Jan 26, 2011
11.3	Jan 23, 2016	9.1	Feb 6, 2010
4.8	Mar 5, 2015		

For purposes of equity, supporting the vision zero goal of pedestrian safety and ensuring accessibility to public transit, Sierra Club urges the County Council to pass this bill.

Thank you.

Shruti Bhatnagar, Chair
Sierra Club Montgomery County, MD
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Tina Slater, Transportation Lead
Sierra Club Montgomery County, MD
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