

Introduced \_\_\_\_\_  
Public hearing \_\_\_\_\_  
Council action \_\_\_\_\_  
Executive action \_\_\_\_\_  
Effective date \_\_\_\_\_

## County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 4

### BILL NO. 11– 2019

**Introduced by:** Christiana Mercer Rigby and Liz Walsh

**Co-sponsored by:** Deb Jung

**AN ACT** amending the Howard County Code by altering the minimum buffer of existing forest or wooded area between a road and a new development that is required for any new developments located along scenic roads; requiring a certain buffer to be wide enough to maintain a road's visual character with a certain minimum width from the road right-of-way; altering the requirements for new developments on Scenic Roads; and generally relating to Scenic Roads.

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Introduced and read first time \_\_\_\_\_, 2019. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2019.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

This Bill was read the third time on \_\_\_\_\_, 2019 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2019

\_\_\_\_\_  
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County  
2 Code is hereby amended as follows:

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4 *By Amending:*

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6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*

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8 *Subtitle 1. "Subdivisions and Land Development Regulations"*

9 *Article II. "Design Standards and Requirements"*

10 *Section 16.125. "Protection of Scenic Roads."; and*

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12 *Subtitle 14. "Scenic Roads"*

13 *Section 16.1404. "Alterations to Scenic Road Rights-of-Way."*

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## HOWARD COUNTY CODE

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### **Subtitle 1. Subdivisions and Land Development Regulations**

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#### **Article II. Design Standards and Requirements**

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#### **Section. 16.125. – Protection of Scenic Roads.**

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(a) *Application of Regulations.* The Subdivision and Land Development Regulations, Zoning  
23 Regulations, Forest Conservation ordinance and Landscape Manual shall be applied to  
24 development along a scenic road in a manner which helps to preserve the scenic character of  
25 the landscape viewed from these roads and the features of the road right-of-way that contribute  
26 to the road's scenic character.

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(b) *Guidelines for Development of Land Abutting a Scenic Road.* Because scenic landscapes  
28 vary greatly, design solutions for development will vary. The following guidelines provide  
29 direction for the development of land abutting a scenic road. They are to be applied as  
30 appropriate, given the constraints of the particular site and the relative priority of other County  
31 policies and requirements such as public safety, farmland preservation, forest conservation,  
32 protection of sensitive environmental features and the need to construct public facilities.

33

(1) *General.*

- 1 (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and  
2 roads in locations that minimize the impact of the subdivision on views from the  
3 scenic road. Generally structures and uses should be located away from the right-of-  
4 way for scenic roads unless screened by topography or vegetation.
- 5 (ii) Minimize tree and vegetation removal. In addition to requirements for protection  
6 of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation  
7 adjacent to the scenic road, as well as mature trees and hedgerows visible from the  
8 road.
- 9 (iii) Minimize grading; retain existing slopes along the scenic road frontage.
- 10 (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided,  
11 houses should be sited as far as possible from the road and well screened.
- 12 (v) Locate and design utilities, stormwater management facilities, drainage structures,  
13 bridges, lighting, fences and walls to be unobtrusive and to harmonize with the  
14 surroundings to maintain existing view corridors. Subdivision entrance features  
15 should be low, open, and in keeping with the scenic character of the area in  
16 accordance with section 128 of the zoning regulations.
- 17 (vi) Locate parking lots, loading areas and storage areas so that these uses are screened  
18 from the scenic road.
- 19 (vii) Use vegetation commonly found on the site or in the area for landscaping.
- 20 (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving  
21 the maximum possible density is not sufficient justification to allow impacts on  
22 scenic roads.
- 23 (2) *Forested or wooded areas.* Any new developments located along scenic roads must  
24 maintain at least a ~~[[35-foot]]~~ 100-FOOT buffer of existing forest or wooded area between  
25 the road and the new development. The buffer shall be wide enough to maintain the road's  
26 visual character with a minimum width of at least ~~[[35 feet]]~~ 100 FEET from the road right-  
27 of-way.
- 28 (3) *Areas with open views.*

- 1 (i) Cluster development to retain as much as possible of the open character of the site  
2 and to minimize interference with panoramic views from the road.
- 3 (ii) Where possible, site new buildings behind natural screening or cluster development  
4 in or along the edges of forests, at the edges of fields and hedgerows, or near existing  
5 buildings.
- 6 (iii) Preserve the foreground meadow, pasture or cropland and place development in  
7 the background as viewed from the road.
- 8 (iv) Avoid placing structures on the tops of prominent ridges.
- 9 (v) If new construction cannot be made unobtrusive through siting or the use of natural  
10 screening, use landscaping, including berms, to buffer development from the scenic  
11 road.

12 (4) *ALTERNATIVE INGRESS AND EGRESS.* ANY NEW DEVELOPMENT THAT ADJOINS A  
13 SCENIC ROAD SHALL TO THE EXTENT PRACTICABLE, PROVIDE VEHICULAR INGRESS  
14 AND EGRESS AT A NON-SCENIC ROAD. ANY NEW VEHICULAR INGRESS AND EGRESS  
15 ALONG A SCENIC ROAD SHALL BE APPROVED BY THE PLANNING BOARD AFTER A  
16 PUBLIC MEETING AND A DETERMINATION THAT SUCH VEHICULAR INGRESS AND  
17 EGRESS CANNOT PRACTICABLY BE LOCATED ON A NON-SCENIC ROAD.

18 (5) *LARGER DEVELOPMENTS.* ANY NEW DEVELOPMENT FOR MORE THAN 99 RESIDENTIAL  
19 UNITS, WHICH PROPOSES A NEW VEHICULAR INGRESS AND EGRESS ON A SCENIC ROAD  
20 OR PROPOSES SUCH INGRESS AND EGRESS WITHIN ONE ROADWAY MILE OF A SCENIC  
21 ROAD, THE CHARACTER OF WHICH WILL BE DIRECTLY IMPACTED BY THE  
22 DEVELOPMENT’S TRAFFIC SHALL BE REQUIRED TO OBTAIN APPROVAL FROM THE  
23 DEPARTMENT OF PLANNING AND ZONING, AND FROM THE PLANNING BOARD AFTER A  
24 PUBLIC MEETING IN ACCORDANCE WITH SUBSECTION 6 BELOW.

25 (6) FOR ANY DEVELOPMENT SUBJECT TO SUBSECTION 5 ABOVE, THE DEPARTMENT OF  
26 PLANNING AND ZONING, AND SUBSEQUENTLY THE PLANNING BOARD, AFTER A PUBLIC  
27 MEETING, SHALL APPROVE THE PLAN IF IT DETERMINES THAT THE PROPOSED  
28 VEHICULAR INGRESS AND EGRESS ADEQUATELY BALANCES THE PROTECTION OF  
29 SCENIC ROADWAY ELEMENTS OF SUBSECTION (B)(1) – (3) ABOVE WITH THE  
30 CONSTRUCTION OF IMPROVEMENTS PRESCRIBED UNDER VOLUME III (ROADS AND

1 BRIDGES) OF THE DESIGN MANUAL TO ENSURE THE PUBLIC’S SAFETY TO THE  
2 MAXIMUM EXTENT PRACTICABLE. IN THE EVENT THAT THE DIRECTOR OF PLANNING  
3 AND ZONING, AFTER CONSULTATION WITH THE DIRECTOR OF PUBLIC WORKS,  
4 DETERMINES THAT THE TIMING OF A CAPITAL PROJECT(S) OR THE NEED TO ENSURE  
5 CONTINUITY IN THE TRANSPORTATION NETWORK MAKES IT MORE EFFICIENT TO  
6 DELAY CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED IMPROVEMENTS UNDER  
7 VOLUME III (ROADS AND BRIDGES) OF THE DESIGN MANUAL, THE DIRECTOR OF  
8 PLANNING AND ZONING SHALL REQUIRE THAT THE DEVELOPER:

- 9 (I) DELAY THE CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO A  
10 DATE CERTAIN AND SIGN A MAJOR FACILITIES AGREEMENT GUARANTEEING  
11 THE CONSTRUCTION OF THE DELAYED IMPROVEMENTS; OR
- 12 (II) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT  
13 ESTIMATE COST OF THE IMPROVEMENTS, WHICH MONEY SHALL BE USED BY  
14 THE COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO IMPROVE THE  
15 SCENIC ROAD.

16 ([[4]]7) *Administrative waivers.*

- 17 (i) A developer seeking an administrative waiver from the scenic road requirements  
18 shall give written notice within one week of the filing date of the waiver petition, via  
19 first-class mail to:
  - 20 a. All adjoining property owners identified in the records of the State Department  
21 of Assessments and Taxation; and
  - 22 b. All attendees of record of the presubmission community meeting; and
  - 23 c. All interested parties on file with the Department of Planning and Zoning.
- 24 (ii) The Department shall not approve any petition for a scenic road requirement waiver  
25 within 30 days of meeting the written notice requirement to allow for public  
26 comment.

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**Subtitle 14. Scenic Roads**

**Section. 16.1404. – Alterations to Scenic Road Rights-of-Way.**

(a) *County Maintained Scenic Roads:*

- (1) *Standards.* The road design manual adopted pursuant to section 18.210 of this Code shall include standards for scenic roads. The standards shall protect the features of the scenic road right-of-way that contribute to the scenic character of the road when necessary road improvements are made.
- (2) *Protecting scenic character.* Scenic roads may be altered to make necessary safety, access, drainage, or road capacity improvements, including improvements to meet the requirements of the adequate public facilities act (title 16, subtitle 11) or to install pull-offs or utility, water or sewage systems. Projects which alter the appearance of a scenic road, including maintenance, capital projects and improvements required through the subdivision or development process, shall be designed to protect to the maximum extent possible the features of the road right-of-way that contribute to the scenic character of the road.
- (3) *ALTERNATIVE INGRESS AND EGRESS.* ANY NEW DEVELOPMENT THAT ADJOINS A SCENIC ROAD SHALL TO THE EXTENT PRACTICABLE, PROVIDE VEHICULAR INGRESS AND EGRESS AT A NON-SCENIC ROAD. ANY NEW VEHICULAR INGRESS AND EGRESS ALONG A SCENIC ROAD SHALL BE APPROVED BY THE PLANNING BOARD AFTER A PUBLIC MEETING AND A DETERMINATION THAT SUCH VEHICULAR INGRESS AND EGRESS CANNOT PRACTICABLY BE LOCATED ON A NON-SCENIC ROAD.
- (4) *LARGER DEVELOPMENTS.* ANY NEW DEVELOPMENT FOR MORE THAN 99 RESIDENTIAL UNITS, WHICH PROPOSES A NEW VEHICULAR INGRESS AND EGRESS ON A SCENIC ROAD OR PROPOSES SUCH INGRESS AND EGRESS WITHIN ONE ROADWAY MILE OF A SCENIC ROAD, THE CHARACTER OF WHICH WILL BE DIRECTLY IMPACTED BY THE DEVELOPMENT’S TRAFFIC SHALL BE REQUIRED TO OBTAIN APPROVAL FROM THE DEPARTMENT OF PLANNING AND ZONING, AND FROM THE PLANNING BOARD AFTER A PUBLIC MEETING IN ACCORDANCE WITH SUBSECTION 5 BELOW.

1 (5) *DEPARTMENT OF PLANNING AND ZONING APPROVAL.* FOR ANY DEVELOPMENT SUBJECT TO  
2 SUBSECTION 4 ABOVE, THE DEPARTMENT OF PLANNING AND ZONING, AND  
3 SUBSEQUENTLY THE PLANNING BOARD, AFTER A PUBLIC MEETING, SHALL APPROVE THE  
4 PLAN IF IT DETERMINES THAT THE PROPOSED VEHICULAR INGRESS AND EGRESS  
5 ADEQUATELY BALANCES THE PROTECTION OF SCENIC ROADWAY ELEMENTS OF SECTION  
6 16.125 (B)(1) – (3) WITH THE CONSTRUCTION OF IMPROVEMENTS PRESCRIBED UNDER  
7 VOLUME III (ROADS AND BRIDGES) OF THE DESIGN MANUAL TO ENSURE THE PUBLIC’S  
8 SAFETY TO THE MAXIMUM EXTENT PRACTICABLE. IN THE EVENT THAT THE DIRECTOR OF  
9 PLANNING AND ZONING, AFTER CONSULTATION WITH THE DIRECTOR OF PUBLIC WORKS,  
10 DETERMINES THAT THE TIMING OF A CAPITAL PROJECT(S) OR THE NEED TO ENSURE  
11 CONTINUITY IN THE TRANSPORTATION NETWORK MAKES IT MORE EFFICIENT TO DELAY  
12 CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED IMPROVEMENTS UNDER VOLUME III  
13 (ROADS AND BRIDGES) OF THE DESIGN MANUAL, THE DIRECTOR OF PLANNING AND  
14 ZONING SHALL REQUIRE THAT THE DEVELOPER:

- 15 (I) DELAY THE CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO A  
16 DATE CERTAIN AND SIGN A MAJOR FACILITIES AGREEMENT GUARANTEEING  
17 THE CONSTRUCTION OF THE DELAYED IMPROVEMENTS; OR  
18 (II) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT  
19 ESTIMATE COST OF THE IMPROVEMENTS, WHICH MONEY SHALL BE USED BY  
20 THE COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO IMPROVE THE  
21 SCENIC ROAD.

22 (b) *State Maintained Scenic Roads.* State maintained scenic roads are not subject to design  
23 standards and other County regulations governing alterations to the road right-of-way. The  
24 County will seek to work cooperatively with the State Highway Administration in the design  
25 of alterations to State roads.

26 (c) *Effect of Adequate Public Facilities Act.* Scenic roads are subject to the requirements of the  
27 adequate public facilities ordinance (title 16, subtitle 11). To limit alterations to an intersection  
28 involving a scenic road under the provisions of the adequate public facilities ordinance, such  
29 an intersection may be designated a "constrained road facility" by the County Council in  
30 accordance with subsections 16.1101(f)(4) and 16.1110(e) of this Code. Restrictions on  
31 improvements to a constrained road facility shall not be grounds for denial of subdivision

1 plans or site development plans that would otherwise be subject to required road  
2 improvements under the adequate public facilities ordinance.

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4 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act*  
5 *shall become effective 61 days after its enactment.*

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