

Introduced _____
Public hearing _____
Council action _____
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2018 Legislative Session

Legislative day # 10

BILL NO. 58– 2018

Introduced by:

Calvin Ball
Jennifer Terrasa

AN ACT amending the Howard County Code to amend the requirements for new developments on Scenic Roads; and generally relating to Scenic Roads.

Introduced and read first time _____, 2018. 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 _____, 2018.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2018 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 _____, 2018 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

Allan H. Kittleman, 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:

3
4 *By Amending:*

5
6 Title 16. “Planning, Zoning and Subdivisions and Land Development Regulations”

7
8 Subtitle 1. “Subdivisions and Land Development Regulations”

9 Article II. “Design Standards and Requirements”

10 Section 16.125. “Protection of Scenic Roads.”; and

11
12 Subtitle 14. “Scenic Roads”

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

14
15
16
17 **HOWARD COUNTY CODE**

18
19 **Subtitle 1. Subdivisions and Land Development Regulations**

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

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

22 (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.

27 (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.*

34 (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and
35 roads in locations that minimize the impact of the subdivision on views from the

1 scenic road. Generally structures and uses should be located away from the right-of-
2 way for scenic roads unless screened by topography or vegetation.

3 (ii) Minimize tree and vegetation removal. In addition to requirements for protection
4 of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation
5 adjacent to the scenic road, as well as mature trees and hedgerows visible from the
6 road.

7 (iii) Minimize grading; retain existing slopes along the scenic road frontage.

8 (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided,
9 houses should be sited as far as possible from the road and well screened.

10 (v) Locate and design utilities, stormwater management facilities, drainage structures,
11 bridges, lighting, fences and walls to be unobtrusive and to harmonize with the
12 surroundings to maintain existing view corridors. Subdivision entrance features
13 should be low, open, and in keeping with the scenic character of the area in
14 accordance with section 128 of the zoning regulations.

15 (vi) Locate parking lots, loading areas and storage areas so that these uses are screened
16 from the scenic road.

17 (vii) Use vegetation commonly found on the site or in the area for landscaping.

18 (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving
19 the maximum possible density is not sufficient justification to allow impacts on
20 scenic roads.

21 (2) *Forested or wooded areas.* Any new developments located along scenic roads must
22 maintain at least a 35-foot buffer of existing forest or wooded area between the road and
23 the new development. The buffer shall be wide enough to maintain the road's visual
24 character with a minimum width of at least 35 feet from the road right-of-way.

25 (3) *Areas with open views.*

26 (i) Cluster development to retain as much as possible of the open character of the site
27 and to minimize interference with panoramic views from the road.

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

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

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

22 (6) FOR ANY DEVELOPMENT SUBJECT TO SUBSECTION 5 ABOVE, THE DEPARTMENT OF
23 PLANNING AND ZONING, AND SUBSEQUENTLY THE PLANNING BOARD, AFTER A PUBLIC
24 MEETING, SHALL APPROVE THE PLAN IF IT DETERMINES THAT THE PROPOSED
25 VEHICULAR INGRESS AND EGRESS ADEQUATELY BALANCES THE PROTECTION OF
26 SCENIC ROADWAY ELEMENTS OF SUBSECTION (B)(1) – (3) ABOVE WITH THE
27 CONSTRUCTION OF IMPROVEMENTS PRESCRIBED UNDER VOLUME III (ROADS AND
28 BRIDGES) OF THE DESIGN MANUAL TO ENSURE THE PUBLIC’S SAFETY TO THE
29 MAXIMUM EXTENT PRACTICABLE. IN THE EVENT THAT THE DIRECTOR OF PLANNING
30 AND ZONING, AFTER CONSULTATION WITH THE DIRECTOR OF PUBLIC WORKS,

1 DETERMINES THAT THE TIMING OF A CAPITAL PROJECT(S) OR THE NEED TO ENSURE
2 CONTINUITY IN THE TRANSPORTATION NETWORK MAKES IT MORE EFFICIENT TO
3 DELAY CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED IMPROVEMENTS UNDER
4 VOLUME III (ROADS AND BRIDGES) OF THE DESIGN MANUAL, THE DIRECTOR OF
5 PLANNING AND ZONING SHALL REQUIRE THAT THE DEVELOPER:

6 (I) DELAY THE CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO A
7 DATE CERTAIN AND SIGN A MAJOR FACILITIES AGREEMENT GUARANTEEING
8 THE CONSTRUCTION OF THE DELAYED IMPROVEMENTS; OR

9 (II) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT
10 ESTIMATE COST OF THE MITIGATION, WHICH MONEY SHALL BE USED BY THE
11 COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO IMPROVE THE
12 SCENIC ROAD.

13 ([[4]]7) *Administrative waivers.*

14 (i) A developer seeking an administrative waiver from the scenic road requirements
15 shall give written notice within one week of the filing date of the waiver petition, via
16 first-class mail to:

17 a. All adjoining property owners identified in the records of the State Department
18 of Assessments and Taxation; and

19 b. All attendees of record of the presubmission community meeting; and

20 c. All interested parties on file with the Department of Planning and Zoning.

21 (ii) The Department shall not approve any petition for a scenic road requirement waiver
22 within 30 days of meeting the written notice requirement to allow for public
23 comment.

1 **Subtitle 14. Scenic Roads**

2
3 **Section. 16.1404. – Alterations to Scenic Road Rights-of-Way.**

4 (a) *County Maintained Scenic Roads:*

5 (1) *Standards.* The road design manual adopted pursuant to section 18.210 of this Code
6 shall include standards for scenic roads. The standards shall protect the features of the
7 scenic road right-of-way that contribute to the scenic character of the road when necessary
8 road improvements are made.

9 (2) *Protecting scenic character.* Scenic roads may be altered to make necessary safety,
10 access, drainage, or road capacity improvements, including improvements to meet the
11 requirements of the adequate public facilities act (title 16, subtitle 11) or to install pull-
12 offs or utility, water or sewage systems. Projects which alter the appearance of a scenic
13 road, including maintenance, capital projects and improvements required through the
14 subdivision or development process, shall be designed to protect to the maximum extent
15 possible the features of the road right-of-way that contribute to the scenic character of the
16 road.

17 (3) *ALTERNATIVE INGRESS AND EGRESS.* ANY NEW DEVELOPMENT THAT ADJOINS A SCENIC
18 ROAD SHALL TO THE EXTENT PRACTICABLE, PROVIDE VEHICULAR INGRESS AND EGRESS
19 AT A NON-SCENIC ROAD. ANY NEW VEHICULAR INGRESS AND EGRESS ALONG A SCENIC
20 ROAD SHALL BE APPROVED BY THE PLANNING BOARD IN A PUBLIC MEETING AFTER A
21 DETERMINATION THAT SUCH VEHICULAR INGRESS AND EGRESS CANNOT PRACTICABLY BE
22 LOCATED ON A NON-SCENIC ROAD.

23 (4) *LARGER DEVELOPMENTS.* ANY NEW DEVELOPMENT FOR MORE THAN 99 RESIDENTIAL
24 UNITS, WHICH ADJOINS A SCENIC ROAD AND PROPOSES A NEW VEHICULAR INGRESS AND
25 EGRESS ON A SCENIC ROAD OR PROPOSES SUCH INGRESS AND EGRESS WITHIN ONE
26 ROADWAY MILE OF A SCENIC ROAD SHALL BE REQUIRED TO OBTAIN APPROVAL FROM THE
27 DEPARTMENT OF PLANNING AND ZONING, AND FROM THE PLANNING BOARD AFTER A
28 PUBLIC MEETING IN ACCORDANCE WITH SUBSECTION 5 BELOW.

29 (5) *DEPARTMENT OF PLANNING AND ZONING APPROVAL.* FOR ANY DEVELOPMENT SUBJECT TO
30 SUBSECTION 4 ABOVE, THE DEPARTMENT OF PLANNING AND ZONING, AND

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

13 (I) DELAY THE CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO A
14 DATE CERTAIN AND SIGN A MAJOR FACILITIES AGREEMENT GUARANTEEING
15 THE CONSTRUCTION OF THE DELAYED IMPROVEMENTS; OR

16 (II) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT
17 ESTIMATE COST OF THE MITIGATION, WHICH MONEY SHALL BE USED BY THE
18 COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO IMPROVE THE
19 SCENIC ROAD.

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

24 (c) *Effect of Adequate Public Facilities Act.* Scenic roads are subject to the requirements of the
25 adequate public facilities ordinance (title 16, subtitle 11). To limit alterations to an intersection
26 involving a scenic road under the provisions of the adequate public facilities ordinance, such
27 an intersection may be designated a "constrained road facility" by the County Council in
28 accordance with subsections 16.1101(f)(4) and 16.1110(e) of this Code. Restrictions on
29 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.

3

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.***