

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

County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 13

Bill No. 63 - 2019

Introduced by: Liz Walsh, Deb Jung, and Christiana Mercer Rigby

AN ACT amending the Howard County Code by altering the requirements for a certain buffer between a road and a new major subdivision that is located along a Scenic Road; altering a certain approval process for a major subdivision that abuts or adjoins a scenic road; and generally relating to Scenic Roads.

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

By order _____
Diane Schwartz Jones, 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 _____
Diane Schwartz Jones, Administrator

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

By order _____
Diane Schwartz Jones, 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 _____
Diane Schwartz Jones, 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
2 County Code is hereby amended as follows:
3

4 *By Amending:*

5
6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*

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

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

9 *Section 16.125. "Protection of Scenic Roads."*
10

11 **HOWARD COUNTY CODE**
12

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

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

15 **Article II. Design Standards and Requirements**
16

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

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

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

29 (1) *General.*

30 (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and
31 roads in locations that minimize the impact of the subdivision on views from the
32 scenic road. Generally structures and uses should be located away from the right-of-
33 way for scenic roads unless screened by topography or vegetation.

34 (ii) Minimize tree and vegetation removal. In addition to requirements for protection

1 of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation
2 adjacent to the scenic road, as well as mature trees and hedgerows visible from the
3 road.

- 4 (iii) Minimize grading; retain existing slopes along the scenic road frontage.
- 5 (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided,
6 houses should be sited as far as possible from the road and well screened.
- 7 (v) Locate and design utilities, stormwater management facilities, drainage structures,
8 bridges, lighting, fences and walls to be unobtrusive and to harmonize with the
9 surroundings to maintain existing view corridors. Subdivision entrance features
10 should be low, open, and in keeping with the scenic character of the area in
11 accordance with section 128 of the zoning regulations.
- 12 (vi) Locate parking lots, loading areas and storage areas so that these uses are screened
13 from the scenic road.
- 14 (vii) Use vegetation commonly found on the site or in the area for landscaping.
- 15 (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving
16 the maximum possible density is not sufficient justification to allow impacts on
17 scenic roads.

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

22 *BUFFERS. FOR NEW MAJOR SUBDIVISIONS, A MINIMUM 100-FOOT CONTINUOUS VEGETATED*
23 *BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE*
24 *ROAD AND SUBDIVISION TO PRESERVE, MAINTAIN, OR ENHANCE THE VISUAL CHARACTER*
25 *OF THE ROAD. THE BUFFER SHALL CLOSELY REFLECT THE NATURAL CHARACTER OF THE*
26 *UNDEVELOPED LAND. ANY INVASIVE SPECIES SHALL BE REMOVED FROM THE BUFFER, AND*
27 *THE BUFFER SHALL BE REPLANTED AND ENHANCED WITH NATIVE SPECIES OF THE SAME*
28 *COMMUNITY TYPES, WHETHER FOREST, WETLANDS, FIELD, PASTURE, MEADOW,*
29 *HEDGEROW, OR OTHERWISE.*

1 (3) *Areas with open views.*

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

13 (C) *APPROVALS.*

- 14 (1) FOR ANY MAJOR SUBDIVISION THAT ABUTS OR ADJOINS A SCENIC ROAD, AN INITIAL
15 PLAN SUBMITTAL MUST BE APPROVED BY THE PLANNING BOARD PRIOR TO FINAL
16 APPROVAL BY THE DEPARTMENT OF PLANNING AND ZONING. THIS PROVISION SHALL
17 NOT APPLY TO ANY DEVELOPMENT THAT IS OUTSIDE THE PLANNED SERVICE AREA OR
18 THAT IS SUBJECT TO THE CLARKSVILLE PIKE STREETScape PLAN AND DESIGN
19 GUIDELINES, THE DOWNTOWN-WIDE DESIGN GUIDELINES, OR THE DOWNTOWN
20 NEIGHBORHOOD DESIGN GUIDELINES FOR DOWNTOWN COLUMBIA REVITALIZATION.
- 21 (2) THE PLANNING BOARD SHALL EVALUATE THE PROPOSED INITIAL PLAN SUBMITTAL AT A
22 PUBLIC MEETING AND CONSIDER A VISUAL ASSESSMENT OF THE AFFECTED SCENIC
23 ROAD.
- 24 (3) THE INITIAL PLAN SUBMITTAL SHALL INCLUDE ALL INFORMATION REQUIRED BY THE
25 SUBDIVISION AND LAND DEVELOPMENT REGULATIONS OF THE HOWARD COUNTY
26 CODE, AND THE FOLLOWING:
- 27 (I) SITE ACCESS AND METHODS TO MINIMIZE BUFFER DISTURBANCE;
- 28 (II) A CONCEPT LANDSCAPE AND GRADING PLAN FOR THE BUFFER; AND
- 29 (III) A VISUAL ASSESSMENT, INCLUDING POTENTIAL VIEWPOINTS OF THE DEVELOPMENT
30 TAKEN FROM THE SCENIC ROAD, INCLUDING:

- 1 A. PLANS AND AERIAL PHOTOGRAPHS SHOWING THE SUBJECT PROPERTY, ITS
- 2 CONTEXT, AND SURROUNDING LAND USES AND DEVELOPMENT CHARACTER,
- 3 INCLUDING THE SETBACKS AND LOT LAYOUTS OF THE SURROUNDING AREA;
- 4 B. PERSPECTIVE DRAWINGS, PHOTOGRAPHIC SIMULATIONS, CROSS SECTIONS
- 5 AND/OR ELEVATIONS SHOWING EXISTING CONDITIONS AND PROPOSED
- 6 CHANGES ASSOCIATED WITH THE PROPOSED DEVELOPMENT;
- 7 C. A SURVEY OF EXISTING VEGETATION SHOWING TREES 12 INCHES OR
- 8 GREATER IN CALIPER AND NON-NATIVE, INVASIVE SPECIES;
- 9 D. A DESCRIPTION SUMMARIZING THE CHARACTER AND QUALITY OF THE
- 10 SCENIC ROAD, AS VIEWED FROM THE ROAD, USING THE SCENIC ROADS
- 11 INVENTORY AS A GUIDE; AND
- 12 E. A DETAILED ASSESSMENT OF ANY PROPOSED VISUAL IMPACTS TO SCENIC OR
- 13 HISTORIC FEATURES AND PROPOSED MITIGATION MEASURES, INCLUDING AN
- 14 ASSESSMENT OF WHETHER THE PROPOSED CHANGES COMPLY WITH THE
- 15 GUIDELINES FOR DEVELOPMENT OF LAND ABUTTING A SCENIC ROAD IN
- 16 SUBSECTION (B) OF THIS SECTION.

17 (4) THE PLANNING BOARD SHALL USE THE CRITERIA SPECIFIED IN THIS PARAGRAPH TO
18 EVALUATE THE INITIAL PLAN SUBMITTAL.

- 19 (i) ACCESS. THE PLANNING BOARD SHALL CONSIDER WHETHER THE PROPERTY HAS
- 20 FRONTAGE ON A NON-SCENIC ROAD, THE IMPACTS TO ENVIRONMENTAL FEATURES, AND
- 21 TRAFFIC SAFETY.
- 22 A. WHEREVER PRACTICABLE, ACCESS SHALL BE LOCATED ALONG A NON-SCENIC ROAD.
- 23 B. ONLY TO THE EXTENT VEHICULAR ACCESS CANNOT BE PRACTICABLY LOCATED
- 24 ALONG A NON-SCENIC ROAD, ACCESS ALONG A SCENIC ROAD SHALL BE PERMITTED
- 25 AT AN EXISTING DRIVEWAY LOCATION.
- 26 C. ONLY TO THE EXTENT VEHICULAR ACCESS CANNOT BE PRACTICABLY LOCATED
- 27 ALONG A NON-SCENIC ROAD OR AT AN EXISTING DRIVEWAY, ADDITIONAL ACCESS
- 28 ALONG A SCENIC ROAD MAY BE PERMITTED.
- 29 D. TO THE EXTENT THAT ANY ACCESS IS PERMITTED ALONG A SCENIC ROAD, SUCH
- 30 ACCESS SHALL UTILIZE AND PRESERVE THE LOCATION, ALIGNMENT, TOPOGRAPHY
- 31 AND SURROUNDINGS SO AS TO MINIMIZE INTERFERENCE WITH PANORAMIC VIEWS
- 32 FROM THE ROAD FOR AT LEAST THE WIDTH OF THE REQUIRED BUFFER WHILE

1 ENSURING PUBLIC SAFETY.

2 (ii) BUFFERS. THE PLANNING BOARD SHALL DETERMINE WHETHER THE BUFFER
3 PRESERVES, MAINTAINS, OR ENHANCES THE VISUAL CHARACTER OF THE ROAD AND
4 SURROUNDING AREA, AND WHETHER ACCESS MINIMIZES IMPACTS TO THE BUFFER.
5 AFTER CONSIDERING THE SITE ACCESS, THE BUFFER CONCEPT PLAN, AND THE VISUAL
6 ASSESSMENT AND POTENTIAL IMPACTS TO THE BUFFER, THE PLANNING BOARD MAY
7 REDUCE AN EXISTING NON-WOODED BUFFER TO NO-LESS THAN 75 FEET IF A BUFFER
8 LESS THAN 100 FEET WIDE COULD PROVIDE NATURAL SCREENING OR IF REPLANTED AS
9 FOREST OR WOODED AREA.

10 (5) ROAD IMPROVEMENTS. ROAD IMPROVEMENTS REQUIRED PURSUANT TO DESIGN
11 MANUAL VOLUME III (ROADS AND BRIDGES) SHALL SERVE TO PRESERVE, MAINTAIN,
12 AND ENHANCE THE EXISTING CHARACTER OF A SCENIC ROAD AS PRACTICABLE AND
13 MINIMIZE VISUAL IMPACTS BY LIMITING IMPROVEMENTS TO THOSE NECESSARY FOR
14 PUBLIC SAFETY. IF THE DIRECTOR OF PLANNING AND ZONING, AFTER CONSULTATION
15 WITH THE DIRECTOR OF PUBLIC WORKS, DETERMINES THAT THE TIMING OF A CAPITAL
16 PROJECT(S) OR THE NEED TO ENSURE CONTINUITY IN THE TRANSPORTATION NETWORK
17 MAKES IT MORE EFFICIENT TO DELAY CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED
18 ROAD IMPROVEMENTS UNDER VOLUME III (ROADS AND BRIDGES) OF THE DESIGN
19 MANUAL, THE DIRECTOR OF PLANNING AND ZONING SHALL REQUIRE THAT THE
20 DEVELOPER:

21 (i) DELAY THE ROAD CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO
22 A DATE CERTAIN NOT TO EXCEED 12 MONTHS AND SIGN A MAJOR FACILITIES
23 AGREEMENT GUARANTEEING THE CONSTRUCTION OF THE DELAYED ROAD
24 IMPROVEMENTS; OR

25 (ii) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT
26 ESTIMATED COST OF THE ROAD IMPROVEMENTS, WHICH MONEY SHALL BE
27 USED BY THE COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO
28 IMPROVE THE SCENIC ROAD.

29 ~~[(4)]~~ (D) *Administrative waivers.*

30 ~~[(i)]~~ (1) A developer seeking an administrative waiver from the scenic road
31 requirements shall give written notice within one week of the filing date of the waiver

1 petition, via first-class mail to:

2 [[a.]] (I) All adjoining property owners identified in the records of the State
3 Department of Assessments and Taxation; and

4 [[b.]] (II) All attendees of record of the presubmission community meeting; and

5 [[c.]] (III) All interested parties on file with the Department of Planning and
6 Zoning.

7 [[(ii)]] (2) The Department shall not approve any petition for a scenic road requirement waiver
8 within 30 days of meeting the written notice requirement to allow for public comment.

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