

Legislation Establishing Rustic Roads Program and Subdivision Regulation Concerning the Rustic Roads Program

Bill No.: 20-92
Concerning: Rustic Roads Program
Draft No. & Date: 7 - 2/16/93
Introduced: June 16, 1992
Enacted: February 16, 1993
Executive: March 1, 1993
Effective: May 31, 1993
Sunset Date: None
Ch. 9, Laws of Mont. Co. 1993

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN ACT to:

- (1) provide for identification and classification of certain rustic roads in the County under a certain process;
- (2) establish a program to preserve the rustic character of certain County roads;
- (3) retain certain physical features of rustic roads;
- (4) establish certain right-of-way maintenance procedures for rustic roads; and
- (5) generally establish a rustic roads program.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-34, Classification and minimum requirements for roads

By adding

Chapter 49, Streets and Roads
Article VII, Rustic Roads Program
Sections 49-76 through 49-80

EXPLANATION: Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill.
[Single boldface brackets] indicate text that is deleted from existing law by the original bill.
Double underlining indicates text that is added to the bill by amendment.
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment.
* * * indicates existing law unaffected by the bill.

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

1 Sec. 1. Chapter 49 is amended to add Article VII as follows:

2 ARTICLE VII.

3 RUSTIC ROADS PROGRAM.

4 49-76. Purpose.

5 This Article provides for identification and classification of
6 rustic roads in that part of the County which is within the
7 Maryland-Washington Regional District. This Article establishes a
8 program to preserve [[those]] as rustic roads [[which afford]] those
9 historic and scenic [[views and]] roadways that reflect the
10 agricultural character and rural origins of the County. Preservation
11 of rustic roads will be achieved by retaining certain physical
12 features of rustic roads and by certain right-of-way maintenance
13 procedures.

14 49-77. Definitions.

15 In this Article, the following terms have the meanings indicated:

- 16 (a) Committee means the Rustic Roads Advisory Committee;
17 (b) County Council means the County Council for Montgomery
18 County, Maryland sitting as a District Council for that
19 portion of the Maryland-Washington Regional District in
20 Montgomery County;
21 (c) Exceptional rustic road means an existing public road or
22 road segment which is so classified under Section 49-78;
23 (d) Master Plan of Highways means the Master Plan of Highways
24 Within Montgomery County, an amendment to the General Plan
25 for the Physical Development of the Maryland-Washington
26 Regional District;
27 (e) Planning Board means the Montgomery County Planning Board

Bill 20-92

1 of the Maryland-National Capital Park and Planning
 2 Commission; and

3 (f) Public utility means any private company or public agency
 4 that:

5 (1) is regulated under Article 78 of the Maryland Code; or

6 (2) provides water, sewer, electric, gas, telephone, or
 7 cable service in the County.

8 [[f]](g) Rustic road means an existing public road or road segment
 9 which is so classified under Section 49-78.

10 49-78. Rustic road classification and reclassification.

11 (a) Classification. The County Council may classify an
 12 existing public road or road segment as a rustic road by an
 13 amendment to the Master Plan of Highways.

14 (b) [[General criteria]] Criteria for rustic road. Before
 15 classifying a road as rustic, the County Council must find
 16 that an existing public road or road segment:

17 (1) is located in an area where natural, agricultural, or
 18 historic features are [[important]] predominant, and
 19 where master planned land use goals and zoning are
 20 compatible with a rural/rustic character;

21 (2) is a narrow road intended for predominantly local use;

22 (3) is a low volume road with traffic volumes that do not
 23 detract significantly from the rustic character of the
 24 road; and

25 (4) (A) has outstanding natural features along its
 26 borders, such as native vegetation, stands of
 27 trees, stream valleys;

Bill 20-92

1 (B) provides outstanding vistas of farm fields and
 2 rural landscape or buildings; or

3 (C) provides access to historic resources, follows
 4 historic alignments, or highlights historic
 5 landscapes.

6 [[c) Roadway function and safety criteria. The County Council
 7 must not classify a road as rustic if that classification
 8 will significantly impair the function or safety of the
 9 roadway network. Before classifying a road as rustic, the
 10 County Council must find that:

11 (1) the road is classified on the Master Plan of Highways
 12 or by an approved plan of subdivision as a:

13 (i) primary residential street;

14 (ii) secondary residential street;

15 (iii) tertiary residential street; or

16 (iv) arterial road in the Agricultural Reserve;

17 (2) the approved zoning for properties near the road is
 18 compatible with the generally low volume, local use of
 19 the rustic road; and]]

20 [[3)](5) the history of vehicle and pedestrian accidents on the
 21 road in its current configuration does not suggest
 22 unsafe conditions.

23 The County Council must not classify a road as rustic if
 24 that classification will significantly impair the function
 25 or safety of the roadway network.

26 [[d)](c) Criteria for exceptional rustic road. The County Council
 27 may classify an existing public road or road segment as an

Bill 20-92

1 exceptional rustic road. Before classifying a road as an
 2 exceptional rustic road, the County Council must find that
 3 the road or road segment:

- 4 (1) is a rustic road under ~~[[subsections]]~~ subsection (b)
 5 ~~[[and (c)]]~~ of this Section;
 6 (2) contributes significantly to the ~~[[rural, scenic]]~~
 7 ~~natural, agricultural, or historic characteristics of~~
 8 the County;
 9 (3) has unusual features found on few other roads in the
 0 County; and
 1 (4) would be more negatively affected by improvements or
 2 modifications to the physical characteristics of the
 3 road than would most other roads in the rustic roads
 4 program.

5 ~~[[e)](d)]~~Significant features. When the County Council classifies a
 6 road as a rustic road or an exceptional rustic road, the
 7 Council must identify the significant features of each such
 8 road that must be preserved when the road is maintained or
 9 improved.

0 ~~[[f)]~~ Reclassification. A rustic road and an exceptional rustic
 1 road may be reclassified to another road classification by
 2 means of an amendment to the Master Plan of Highways.]]

3 49-79. Maintenance and improvements.

- 4 (a) County roads. Rustic roads and exceptional rustic roads
 5 must be maintained and improved in a manner that preserves
 6 the road's significant features identified by the County
 7 Council under subsection 49-78(d). The County Executive

Bill 20-92

1 must establish guidelines by Executive Regulation under
2 method (2) for maintenance and improvement of rustic roads
3 and exceptional rustic roads[[, including utility work
4 along these roads]].

5 **(b) State and park roads.** The County Executive must encourage
6 the State Highway Administration and the Montgomery County
7 Parks Department to maintain and improve rustic roads owned
8 by the State or Park Commission in a manner consistent with
9 this Article.

10 **(c) Public utilities.** Public utility work on or near a rustic
11 road or exceptional rustic road is limited by this Article
12 only when the work will damage a structure identified as a
13 significant feature of the road under subsection 49-78(d).
14 A public utility must make all reasonable efforts to limit
15 irreparable damage to such significant features when
16 working on or near a rustic road or exceptional rustic road.

17 **(d) If this Article conflicts with provisions of Chapter 24A,**
18 the provisions of Chapter 24A apply.

19 **49-80. Rustic Roads Advisory Committee.**

20 **(a) Membership.** The County Executive must appoint, subject to
21 confirmation by the County Council, a Rustic Roads Advisory
22 Committee. The Committee has 7 voting members. Each
23 member must be a resident of the County. The County
24 Executive should appoint:

25 **(1) at least 2 members who are owner-operators of**
26 commercial farmland earning 50 percent or more of
27 their income from farming, one of whom is a member of

Bill 20-92

1 the Agricultural Advisory Committee;

- 2 (2) at least one member who has knowledge of rural
3 preservation techniques through practical experience
4 and training; and
5 (3) at least one member who has knowledge of roadway
6 engineering through practical experience and training.

7 (b) Officers. The Committee must elect a chair annually. The
8 Committee may select other officers annually as it finds
9 appropriate. A member must not serve as chair for more
10 than 2 consecutive years.

11 (c) Meetings. The Committee meets at the call of the chair as
12 often as required to perform its duties, but at least 6
13 times each year. The Committee must also meet if
14 two-thirds of the voting members request in writing that a
15 meeting be held. The Chair must give reasonable advance
16 notice of all meetings to members of the Committee and the
17 general public. A majority of the members are a quorum to
18 transact business.

19 (d) By-laws. The Committee may establish by-laws to govern its
20 activities.

21 (e) Duties. The Committee must:

- 22 (1) promote public awareness and knowledge of the rustic
23 roads program in the County;
24 (2) review and comment on classification [[and
25 reclassification]] of rustic roads and exceptional
26 rustic roads;
27 (3) review and comment on Executive Regulations and other

1 County policies and programs that may affect the
2 rustic roads program; and

3 (4) report annually on June 1 to the County Executive, the
4 County Council, and the Planning Board on the status
5 of the rustic roads program.

6 (f) Staff. The County Executive must provide the Committee
7 with staff, offices, and supplies as are appropriated for
8 it.

9 Sec. 2. Section 49-34 is amended as follows:

10 49-34. Classification and minimum requirements for roads.

11 All roads [shall] must be classified as provided in this
12 Section[, and] under the following minimum requirements for each
13 class [are hereby established as follows]:

14 * * *

15 (j) Rustic road or exceptional rustic road means a road
16 classified as such in the Master Plan of Highways Within
17 Montgomery County under Article VII of this Chapter, as
18 amended. The right-of-way width for each rustic road and
19 exceptional rustic road is as established in the Master
20 Plan of Highways.

21 Sec. 3. [[Transition provision.]] Initial appointments to
22 Advisory Committee.

23 Of the members first appointed to the Rustic Roads Advisory
24 Committee, 2 must be appointed for 1-year terms, 2 must be appointed
25 for 2-year terms, and 3 must be appointed for 3-year terms.

26 Sec. 4. Interim protection of roads.

27 (a) This Act applies to the roads identified on Exhibit A as

Bill 20-92

1 rustic roads and exceptional rustic roads as if the County
2 Council had so classified the roads under Section 49-78.

3 (b) The Rustic Roads Advisory Committee must advise the County
4 Department of Transportation regarding the significant
5 features of these roads that must be preserved when the
6 roads are maintained or improved, or when a public utility
7 completes work on or near the roads. These significant
8 features have the same status as those identified by the
9 County Council under Section 49-78.

0 (c) [[The County Executive may ask the County Council to remove
1 a road from the list on Exhibit A to permit the road to be
2 maintained or improved in a manner not permitted by this
3 Act. The County Council may remove a road from the list on
4 Exhibit A by resolution.]] The County Council may add or
5 delete all or part of a road from the list on Exhibit A by
6 resolution after a public hearing if:

7 (1) the County Executive asks the Council to delete a road
8 from the list so that the road can be maintained or
9 improved in a manner not permitted by this Act;

0 (2) the Rustic Roads Advisory Committee asks the Council
1 to add or delete a road from the list; or

2 (3) a public utility asks the Council to delete a road
3 from the list so that the public utility can complete
4 work along the road in a manner not permitted by this
5 Act.

6 (d) This Section is not effective after December 31, 1996.
7 Sec. 5. Report.

Bill 20-92

The first report required by Section 49-80 must be submitted by
the Rustic Roads Advisory Committee on June 1, 1994.

Approved:

Marilyn J. Praisner

2/19/93

Marilyn J. Praisner, President, County Council

Date

Approved:

Neal Potter

Mar. 1, 1993

Neal Potter, County Executive

Date

This is a correct copy of Council action.

Kathleen A. Freedman

3/1/93

Kathleen A. Freedman, CMC

Date

Secretary of the Council

Attachment to Bill No. 20-92

RUSTIC ROADS INTERIM PROGRAM

<u>ROAD</u>	<u>SEGMENT</u>	<u>INTERIM CLASSIFICATION</u>
Avoca Lane	entire length	rustic
Barnes Road	entire length	rustic
Barnesville Road	entire length	rustic
Batchellors Forest Road	entire length	rustic
Batson Road	entire length	rustic
Beallsville Road (Old Hundred Road) (MD 109)	Hyattstown to Poolesville	rustic
Belle Cote Drive	entire length	rustic
Bellison Road	entire length	rustic
Berryville Road	Rt. 28 to Seneca Road	exceptional
Big Woods Road	entire length	rustic
Black Rock Road	Rt. 28 to Seneca Creek Park	exceptional
Boswell Lane	Glen Mill Road to second bend	exceptional

EXHIBIT A

RUSTIC ROADS FUNCTIONAL MASTER PLAN

Brighton Dam Road	New Hampshire Avenue to Brookeville	rustic
Brogden Road	entire length	rustic
Brookeville Road	Brookeville to Laytonsville Road	rustic
Bucklodge Road (MD 117)	Barnesville Road to MD 28	rustic
Burnt Hill Road	entire length	rustic
Club Hollow Road	entire length	exceptional
Davis Mill Road	entire length	exceptional
Edwards Ferry Road	Edwards Ferry (C&O) to White's Ferry Road	exceptional
Elmer School Road	entire length	exceptional
Elton Farm Road	Howard Chapel to end	exceptional
Glen Mill Road	Circle Drive to Red Barn Lane Red Barn Lane to Glen Road	rustic exceptional
Glen Road	Query Mill Road to Piney Meetinghouse Road Piney Meetinghouse Road to Beekman Place	rustic exceptional

Attachment to Bill No. 20-92

South Glen Road	Glen Road to Deepglen Drive	exceptional
	Deepglen Drive to Falls Road	rustic
Gregg Road	Riggs Road to Georgia Avenue	exceptional
Griffith Road	Laytonsville Road to Damascus Road	rustic
Haviland Mill Road	New Hampshire Ave. to County line	rustic
Hawkes Road	segment outside of Clarksburg Planning Area	rustic
Hipsley Mill Road	Damascus Road to County line	rustic
Holsey Road	entire length	rustic
Howard Chapel Road	Rt. 108 to County line	exceptional
Hoyles Mill Road	White Ground Road to Germantown	exceptional
Hunting Quarters Road	entire length	exceptional
Hyattstown Mill Road	entire length	exceptional
Johnson Road	entire length	rustic

Kemptown Church Road	entire length	rustic
Kingsley Road	Burnt Hill Road to Stringtown Road	exceptional
Kruhm Road	entire length	rustic
Link Road	entire length	exceptional
Martinsburg Road	White's Ferry to North PEPCO entrance	exceptional
Montevideo Road	River Road to Sugarland Road	exceptional
Meetinghouse Road	entire length	exceptional
Moore Road	entire length	rustic
Mount Nebo Road	River Road to West Offutt Road	exceptional
Mouth of Monocacy Road	entire length	exceptional
Moxley Road	entire length	rustic
Mt. Ephraim Road	County line to MD 28	exceptional
Oak Hill Road	entire length	rustic

Attachment to Bill No. 20-92

Old Bucklodge Lane	entire length	exceptional
Old Quince Orchard Road	Passing through stream stream valley	exceptional
Old River Road	River Road to Montevideo	exceptional
Peach Tree Road	MD 28 to MD 109	rustic
Pemneyfield Lock Road	entire length	exceptional
Piedmont Road	entire length	rustic
Poplar Hill Road	entire length	rustic
Prescott Road	entire length	exceptional
Prices Distillery Road	entire length	exceptional
Query Mill Road	Esworthy Road to Turkey Foot Road	exceptional
Riley's Lock Road	entire length	exceptional
River Road	Edwards Ferry Road to Whites Ferry	exceptional

RUSTIC ROADS FUNCTIONAL MASTER PLAN

River Road	West Willard Road to Mt. Nebo Road	rustic
Schaeffer Road	Clopper Road to White Ground Road	rustic
Spring Ridge Road	entire length	rustic
Stoney Creek Road	entire length	rustic
Stringtown Road	north of Clarksburg Planning Area	rustic
Sugarland Road	MD 28 to Partnership Road	exceptional
	Partnership Road to Hughes Road	rustic
Swains Lock Road	entire length	exceptional
Sycamore Landing Road	entire length	exceptional
Tridelphia Lake	MD 97 to Patuxent River	rustic
Tschiffeley Mill Road	River Road to C&O Canal	exceptional
Tucker Road	Ednor View to MD 108	rustic
Turkey Foot Road	entire length	rustic

Violettes Lock Road	entire length	exceptional
Warfield Road	Wightman Road to Goshen Road	rustic
Wasche Road	White's Ferry Road to Martinsburg Road	rustic
Watkins Road	entire length	exceptional
West Harris Road	Barnesville to Mt. Ephraim Road,	exceptional
West Hunter Road	entire length	rustic
West Offutt Road	West Willard Road to Edwards Ferry Road	rustic
West Old Baltimore Road	entire length	exceptional
Westerly Road	Willard Road to Edwards Ferry Road	exceptional
White Ground Road	MD 28 to Boyds	exceptional
White Store Road	entire length	exceptional
White's Ferry Road	Poolesville (western boundary) to Ferry	rustic
Zion Road	MD 108 to Sundown Road	rustic

498/LAW

Ordinance No.: 12-31
 Subdivision Regulation
 Amendment No.: 92-1
 Concerning: Rustic Roads
 Draft No. & Date: 5 2/9/93
 Introduced: June 16, 1992
 Public Hearing: August 4, 1992
 Adopted: February 16, 1993
 Effective: March 8, 1993

COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND
 SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
 OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
 WITHIN MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN AMENDMENT to the Subdivision Regulations to ~~[[require]]~~ provide that the:
(1) Planning Board consider certain rustic road laws and Executive
Regulations in approving a preliminary subdivision plan[[.]]
(2) Planning Board may grant certain waivers; and
(3) Department of Transportation may grant certain waivers.

By amending

Montgomery County Code
 Chapter 50, Subdivision of Land
~~[[Section 50-35, Preliminary subdivision plans - approval procedure]]~~
Sections 50-24 and 50-35

EXPLANATION: **Boldface** indicates a heading or a defined term
 Underlining indicates text that is added to existing law
 by the original bill
 [Single boldface brackets] indicate text that is deleted
 from existing law by the original bill
 Double underlining indicates text that is added to the
 bill by amendment
 [[Double boldface brackets]] indicate text that is
 deleted from existing law or the bill by amendment
 * * * indicates existing law unaffected by the bill

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District
 Council for that portion of the Maryland-Washington Regional District in
 Montgomery County, Maryland, approves the following ordinance:

Ordinance No.: 12-31

1 Sec. 1. ~~[[Section]]~~ Sections 50-24 and 50-35 ~~[[is]]~~ are amended
2 as follows:

3 50-24. Required public improvements.

4 * * *

5 (k) Notwithstanding the requirements of this Section, for any
6 new subdivision that abuts a rustic road the Planning Board
7 may waive any requirement of subsection (a) or (b)
8 or (i) that is incompatible with the rustic road or
9 substitute any alternative requirement that is consistent
10 with the goals of the rustic roads law.

11 * * *

12 (i) Street lights. The developer or subdivider ~~[[shall]]~~ must
13 provide street lights ~~[[in accordance with]]~~ under
14 specifications, requirements, and standards prescribed by
15 the County Department of Transportation, except for streets
16 where preliminary plans were approved on or before December
17 15, 1968, and the plat thereof was recorded on or before
18 February 1, 1969. The Department of Transportation may
19 wave any requirement under this subsection for any new
20 subdivision that abuts a rustic road if the requirement is
21 incompatible with the rustic road, or substitute any
22 alternative requirement that is consistent with the goals
23 of the rustic roads law.

24 50-35. Preliminary subdivision plans - approval procedures.

25 * * *

26 ~~[[o]]~~(p) In approving a preliminary plan, the Planning Board
27 must not require improvements that are contrary to the

Ordinance No.: 12-31

1 law or Executive Regulations governing rustic roads. If
2 the Planning Board is otherwise directed by this Section to
3 require improvements that are contrary to the rustic roads
4 law or Executive Regulations, the Planning Board must
5 evaluate the feasibility of trip reduction and alternative
6 road improvements to the local roadway network. If the
7 Planning Board determines that no feasible alternative
8 exists, it must require only those improvements that do not
9 change the significant features of the road identified by
10 the Council for preservation.

11 Sec. 2. Interim protection of roads.

12 (a) This Ordinance applies to the roads identified on Exhibit A
13 as rustic roads and exceptional rustic roads as if the
14 County Council had so classified the roads under Section
15 49-78.

16 (b) The Rustic Roads Advisory Committee must advise the
17 Planning Board regarding the significant features of these
18 roads that must be preserved when the roads are improved.
19 These significant features have the same status as those
20 identified by the County Council under Section 49-78.

21 (c) [[The Planning Board may ask the County Council to remove a
22 road from the list on Exhibit A to permit the Board to
23 require roadway improvements not permitted by this Act.
24 The County Council may remove a road from the list on
25 Exhibit A by resolution.]] The County Council may add or
26 delete all or part of a road from the list on Exhibit A by
27 resolution after a public hearing if:

Ordinance No.: 12-31

- 1 (1) the Planning Board asks the Council to delete a road
2 from the list so that the Board can require roadway
3 improvements not permitted by this Act;
4 (2) the Rustic Roads Advisory Committee asks the Council
5 to add or delete a road from the list; or
6 (3) an applicant for a preliminary plan of subdivision
7 asks the Council to delete a road from the list so
8 that the applicant can make roadway improvements not
9 permitted by this Act.

10 (d) This Section is not effective after December 31, 1996.

11 Sec. [[2.]] 3. Effective Date.

12 This ordinance becomes effective 20 days after the date of
13 Council adoption or 10 days after the date of Council adoption
14 following disapproval by the Executive.

15 Approved:

16 Marilyn J. Praisner

17 Marilyn Praisner, President, County Council

2/19/93

Date

19 Approved:

20 Neal Potter

21 Neal Potter, County Executive

Mar. 1, 1993

Date

23 This is a correct copy of Council action.

24 Kathleen A. Freedman

25 Kathleen A. Freedman, CMC

3/1/93

Date

27 Secretary of the Council

Attachment to Ordinance No. 12-31

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Attachment to Ordinance No. 12-31

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Poplar Hill Road	entire length	rustic
Prescott Road	entire length	exceptional
Prices Distillery Road	entire length	exceptional
Query Mill Road	Esworthy Road to Turkey Foot Road	exceptional
Riley's Lock Road	entire length	exceptional
River Road	Edwards Ferry Road to Whites Ferry	exceptional

River Road	West Willard Road to Mt. Nebo Road	rustic
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498/LAW