

Expedited Bill No. 24-18
Concerning: Forest Conservation –
Amendments
Revised: 6/13/2018 Draft No. 2
Introduced: June 19, 2018
Enacted: October 9, 2018
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Planning Board

AN EXPEDITED ACT to:

- (1) exempt from the requirement to submit a Forest Conservation Plan a modification to an existing non-residential developed property if the pending development application does not propose residential uses;
- (2) exempt from the requirements to submit a Forest Conservation Plan a modification to an existing residential development property if the pending development application does not propose new buildings or parking facilities;
- (3) exempt from the requirement to submit a Forest Conservation Plan certain demolition projects under certain circumstances;
- (4) remove ability to pay as a factor for consideration when assessing an administrative penalty; and
- (5) generally amend the Forest Conservation Law.

By amending

Montgomery County Code
Chapter 22A, Forest Conservation – Trees
Sections 22A-3, 22A-5, and 22A-16

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. Sections 22A-3, 22A-5, and 22A-16 are amended as follows:

22A-3. Definitions.

In this Chapter, the following terms have the meanings indicated:

* * *

Tract means [the property subject to a development application or sediment control permit, as described by deed or record plat.];

[[~~(a)~~]] (1) ~~[[The]]~~ the property subject to a development application or a sediment control permit, the boundaries of which are described by deed or record plat;

[[~~(b)~~]] (2) ~~[[The]]~~ the entire property subject to a development application or a sediment control permit if it is developed as a single project; or

[[~~(c)~~]] (3) ~~[[The]]~~ the length and width of the right-of-way or the limits of disturbance, whichever is greater, for a linear project.

* * *

22A-5. Exemptions.

The requirements of Article II do not apply to:

* * *

(t) a modification to an existing:

(1) non-residential developed property if:

(A) no more than 5,000 square feet of forest is ever cleared at one time or cumulatively after an exemption is issued;

(B) the modification does not result in the cutting, clearing, or grading of any forest in a stream buffer or forest located on property in a special protection area which must submit a water quality plan;

(C) the modification does not require approval of a preliminary or administrative subdivision plan; [and]

28 (D) the modification does not increase the developed area by
 29 more than 50%, and the existing development is retained;
 30 [or] and

31 (E) the pending development application does not propose any
 32 residential uses; or

33 (2) residential developed property if:

34 (A) forest is not impacted or cleared;

35 (B) the modification is not located in a stream buffer [or located
 36 on property in a special protection area which must submit
 37 a water quality plan];

38 (C) the modification does not require approval of a preliminary
 39 or administrative subdivision plan;

40 (D) the modification does not increase the developed area by
 41 more than 50%; [and]

42 (E) the existing structure is not modified; and

43 (F) the pending development application does not propose any
 44 new buildings or parking facilities.

45 * * *

46 (v) a stream restoration project for which the applicant for a sediment
 47 control permit has:

48 (1) executed a binding maintenance agreement of at least 5 years
 49 with the affected property owner or owners;

50 (2) agreed to replace every tree removed and plant the new trees
 51 before the end of the first planting season after final stabilization;
 52 and

53 (3) confirmed that the tract is not included in a previously approved
 54 forest conservation plan; [and]

- (w) cutting or clearing any tree by an existing airport operating with all applicable permits to comply with applicable provisions of any federal law or regulation governing the obstruction of navigable airspace if the Federal Aviation Administration has determined that the tree creates a hazard to aviation[.]; and
- (x) the project is for the demolition of an existing structure if:
- (1) there is no proposed future development and existing impervious surfaces are substantially removed from the tract of land;
 - (2) the site is returned to natural topography;
 - (3) the property will not be used for a parking lot, material or equipment storage, or used as a recreational playing field;
 - (4) trees and groundcover will be planted so that all disturbed areas are immediately stabilized;
 - (5) no forest or specimen trees are removed;
 - (6) a tree save plan is submitted to protect existing forest and trees;
 - (7) the property is not already subject to Article II of this Chapter; and
 - (8) a Declaration of Intent is filed with the Planning Director stating that the property will not be the subject of additional development activities under this Chapter within 5 years of demolition of the existing structure.

22A-16. Penalties and other remedies.

* * *

- (d) *Administrative civil penalty*

* * *

- (2) In determining the amount of the civil administrative penalty, or the extent of an administrative order issued by the Planning

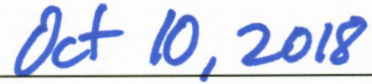
81 Director under Section 22A-17, the Planning Board or Planning
82 Director must consider:

- 83 (A) the willfulness of the violations;
- 84 (B) the damage or injury to tree resources;
- 85 (C) the cost of corrective action or restoration;
- 86 (D) any adverse impact on water quality;
- 87 (E) the extent to which the current violation is part of a recurrent
88 pattern of the same or similar type of violation committed
89 by the violator;
- 90 (F) any economic benefit accrued to the violator or any other
91 person as a result of the violation; and
- 92 (G) [the violator's ability to pay; and]
- 93 [(H)] any other relevant factors.

94 **Sec. 2. Expedited Effective Date.**

95 The Council declares that this legislation is necessary for the immediate
96 protection of the public interest. This Act takes effect on the date that it becomes law.

Approved:



Hans D. Riemer, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date