

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: October 17, 2018
Effective: October 17, 2018
Sunset Date: None
Ch. 27, Laws of Mont. Co. 2018

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:

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]

55 (w) cutting or clearing any tree by an existing airport operating with all
56 applicable permits to comply with applicable provisions of any federal
57 law or regulation governing the obstruction of navigable airspace if the
58 Federal Aviation Administration has determined that the tree creates a
59 hazard to aviation[.]; and

60 (x) the project is for the demolition of an existing structure if:

61 (1) there is no proposed future development and existing impervious
62 surfaces are substantially removed from the tract of land;

63 (2) the site is returned to natural topography;

64 (3) the property will not be used for a parking lot, material or
65 equipment storage, or used as a recreational playing field;

66 (4) trees and groundcover will be planted so that all disturbed areas
67 are immediately stabilized;

68 (5) no forest or specimen trees are removed;

69 (6) a tree save plan is submitted to protect existing forest and trees;

70 (7) the property is not already subject to Article II of this Chapter; and

71 (8) a Declaration of Intent is filed with the Planning Director stating
72 that the property will not be the subject of additional development
73 activities under this Chapter within 5 years of demolition of the
74 existing structure.

75 **22A-16. Penalties and other remedies.**

76 * * *

77 (d) *Administrative civil penalty*

78 * * *

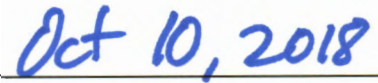
79 (2) In determining the amount of the civil administrative penalty, or
80 the extent of an administrative order issued by the Planning

- 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.

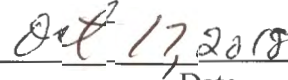
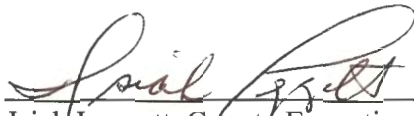
Approved:



Hans D. Riemer, President, County Council

Date

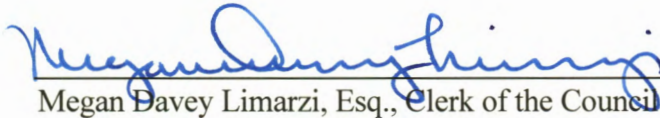
Approved:



Isiah Leggett, County Executive

Date

This is a correct copy of Council action.



Megan Davey Limarzi, Esq., Clerk of the Council

Date