

Bill No.: 18-25
Concerning: Forest Conservation –
Trees
Revised: 9/10/2025 Draft No.: 2
Introduced: June 17, 2025
Enacted: September 16, 2025
Executive: September 29, 2025
Effective: December 29, 2025
Sunset Date: None
Ch. 19, Laws of Mont. Co. 2025

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the Planning Board

AN ACT to:

- (1) define a solar photovoltaic facility and remove afforestation requirements for such facilities;
- (2) add new categories to the priorities of forest retention;
- (3) reinstate forest mitigation banks that protect existing forest;
- (4) remove significant trees from Tree Save Plan requirements; and
- (5) generally amend the law governing Forest Conservation.

By amending

Montgomery County Code

Chapter 22-A, Forest Conservation – Trees

Sections 22A-3, 22A-4, 22A-5, 22A-6, 22A-11, 22A-12, 22A-13, and 22A-15

Boldface	<i>Heading or a 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-4, 22A-5, 22A-6, 22A-11, 22A-12, 22A-13, and 22A-15 are amended as follows:

22A-3 Definitions

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

* * *

[[*Biohealth priority campus plan* means a plan that qualifies as a Biohealth Priority Campus under Section 3.5.8.E of Chapter 59 and is approved under Section 7.3.6 of Chapter 59.]]

* * *

[*District Council* means the County Council in its capacity, under Division II of the Land Use Article of the Maryland Code, to act on planning and zoning for the Maryland-Washington Regional District.]

District Council means the County Council in its capacity, under Division II of the Land Use Article of the Maryland Code, to act on planning and zoning for the Maryland-Washington Regional District.

* * *

[[*Mixed-income community plan*]] Expedited approval plan means a plan that
[[qualifies as a Mixed-income community plan under Section 3.3.1.E
of Chapter 59 and]] is approved under Section [[7.3.7]] 7.3.5 of Chapter 59.

* * *

Person means:

- (1) the federal government, the state, any county, municipal corporation, or other political subdivision of the state, or any of their units[,];
- (2) an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind[,];
- (3) any partnership, firm, common ownership community, or other

homeowners' association, public or private corporation or any of
their affiliates or subsidiaries[,]; or

(4) any other entity.

Planned unit development means a development comprised of a combination
of land uses or varying intensities of the same land use, having at least 20[%]
percent of the land permanently dedicated to green area, and under an
integrated plan that provides flexibility in land use design approved by the
Planning Board under Section 7.2.1 of Chapter 59 or referred to in Section
7.7.1.B of Chapter 59.

* * *

Solar Photovoltaic Facility means an area containing the footprint of ground-
mounted or freestanding solar energy generation equipment that is approved
by the Maryland Public Service Commission.

* * *

Tree means a large, woody plant having one or several self-supporting stems
or trunks [[measuring at least one inch caliper]] and numerous branches that
reach a height of at least 20 feet at maturity.

* * *

22A-4 Applicability

Except as otherwise expressly provided in this Chapter, this Chapter applies
to:

(a) a person required by law to obtain an approval or amendment to a
development plan, diagrammatic plan, project plan, floating zone plan,
sketch plan, [[biohealth priority campus plan, mixed-income
community plan,]] expedited approval plan, preliminary plan of
subdivision, administrative subdivision, minor subdivision, or site plan;

* * *

[Any] Notwithstanding the above, any person who expects to cut, clear, or grade more than [5000] 5,000 square feet of forest or any champion tree[, and who believes that the cutting, clearing, or grading is exempt under Section 22A-5, 22A-6, or 22A-8,] must [notify the Planning Director in writing before performing any cutting, clearing, or grading and seek confirmation from the Director that the cutting, clearing, or grading is in fact exempt from Article II] request an exemption under Section 22A-5 or must comply with the requirements of Article II. Any person who believes that cutting, clearing, or grading is exempt under Section 22A-5, 22A-6, or 22A-8 must receive confirmation from the Planning Director that the activity is in fact exempt from Article II. [Failing to notify the Director as required by this Section, or performing] Performing any cutting, clearing, or grading before the Director confirms that an exemption applies[,] is a violation of this Chapter.

* * *

Sec. 22A-5. Exemptions.

The requirements of Article II do not apply to:

- (a) an activity conducted on an existing single lot of any size that is required to construct a dwelling house or accessory structure (such as a pool, tennis court, or shed) intended for the use of the owner, if the activity:
 - (1) does not require a special exception;
 - (2) does not occur within an environmental buffer, except for the allowable uses stated in the environmental guidelines;
 - (3) does not result in the cutting, clearing, or grading of:
 - (A) more than a total of 20,000 square feet of forest;
 - (B) any forest in a stream buffer[,];
 - (C) any forest on property located in a special protection area which must submit a water quality plan[,];

(D) any specimen or champion tree~~[,] unless a [[Tree Save Plan]]~~ tree save plan is approved under Section 22A-6(a);

or

(E) any trees or forest that are subject to a previously approved forest conservation plan or tree save plan; and

~~[(3)]~~ (4) is subject to a declaration of intent filed with the Planning Director stating that the lot will not be the subject of additional regulated activities under this Chapter within 5 years of the cutting, clearing, or grading of forest;

(b) an agricultural activity if:

* * *

(3) agricultural support buildings and related activities are built using best management practices~~[,]~~;

* * *

(g) ~~[except for the clearing of access roads,]~~ routine maintenance of public utility easements and rights-of-way, except for the clearing of access roads;

* * *

(k) any lot covered by a preliminary plan of subdivision or site plan that did not receive a sediment control permit before July 1, 1991, and for which the preliminary plan of subdivision or site plan:

(1) was approved before July 1, 1984, and has less than 40,000 square feet of forest cover; or

(2) was approved or extended between July 1, 1984 and July 1, 1991~~[,]~~; and

(3) the construction will not result in the cutting, clearing, or grading of:

(A) any forest in a stream buffer[,]; or

(B) any forest on property located in a special protection area which must submit a water quality plan.

* * *

(l) any planned unit development for which a development plan was approved by the District Council or for which a project plan was approved by the Planning Board before January 1, 1992, and which has received site plan approval before July 1, 1992, for the tract. However, even if site plan approval has not been obtained before July 1, 1992, for the tract, the planned unit development is exempt if it is 75[%] percent or more complete on January 1, 1992, as measured by the total acreage subject to the planned unit development that has received site plan approval. A development plan or project plan amendment approved after January 1, 1992, is not exempt if it results in the cutting of more than 5,000 additional square feet of forest;

* * *

(n) any minor subdivision under Division 50.7 of Chapter 50 if:

(1) the only development located on the resulting lot is a single family dwelling unit or an accessory structure (such as a pool, tennis court, or shed); development does not occur within an environmental buffer, except for the allowable uses stated in the environmental guidelines; and development does not result in the cutting, clearing, or grading of:

* * *

(D) any specimen or champion tree unless a [[Tree Save Plan]] tree save plan is approved under Section 22A-6(a); or

(E) any tree or forest that is subject to the requirements of a

previously approved forest conservation plan or tree save plan;

- (2) there is no proposed land disturbance and a declaration of intent is filed with the Planning Director stating that the lot will not be the subject of additional regulated activities under this Chapter within 5 years of the approval of the minor subdivision[.];

- (o) [The] the cutting or clearing of public utility rights-of-way or land for electric generating stations licensed under Sections 7-205 and 7-207 or 7-208 of the Public Utility Companies Article of the Maryland Code, if:

* * *

- (p) the construction of a public utility or highway in a utility right-of-way not exempt under subsection (o), or a highway right-of-way not exempt under subsection (e), if:

- (1) the right-of-way existed before July 1, 1992;
- (2) forest clearing will not exceed a total of 20,000 square feet; and
- (3) the construction will not result in the cutting, clearing, or grading of:

- (A) any forest in a stream buffer[.];
- (B) any forest on property located in a special protection area which must submit a water quality plan[.];
- (C) any specimen or champion tree unless a [[Tree Save Plan]] tree save plan is approved under Section 22A-6(a);[.], or
- (D) any tree or forest that is subject to a previously approved forest conservation or tree save plan;

- (q) a special exception, or conditional use, application if:

* * *

- (2) the application modifies an existing special exception use which was approved before July 1, 1991, and the revision will not result in the clearing of more than a total of 5,000 additional square feet of forest or any specimen or champion tree unless a [[Tree Save Plan]] tree save plan is approved under Section 22A-6(a); or
- (3) the total disturbance area for the proposed special exception use, or conditional use, will not exceed 10,000 square feet, and clearing will not exceed a total of 5,000 square feet of forest or include any specimen or champion tree unless a [[Tree Save Plan]] tree save plan is approved under Section 22A-6(a);
- (r) an equestrian facility located in an agricultural zone that is exempt from platting requirements under Section 50-9, whether or not a sediment control permit is obtained under Section 19-2. Article II does not apply to any equestrian support building or related activity only if the building is built using best management practices. However, Section 22A-6(a) applies if any specimen or champion tree would be cleared. This exemption does not permit any forest or tree that was preserved under a previously-approved forest conservation plan or tree save plan to be cut, cleared, or graded unless the previously-approved plan is amended to allow that activity. This exemption does not apply if:
- * * *
- (3) on-site forest retention does not equal at least 25[%] percent of the tract area or all forest existing when the exemption is claimed, whichever is less; or
- (4) on-site forest retention does not equal at least 50[%] percent of any net tract area when more than 50[%] percent of that tract is existing forest.

* * *

- (s) (1) an activity occurring on a tract of land that is less than 1.5 acres and that:

* * *

(D) would not result in development within an environmental buffer, except for the allowable uses stated in the environmental guidelines; or

- (2) an activity occurring on a tract of land that is less than [1] one acre and that:

(A) is not located within the Commercial Residential (CR) zone classification; unless a [[Tree Save Plan]] tree save plan is approved under Section 22A-6(a);

(B) would not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree;

(C) would not result in a reforestation requirement that exceeds 10,000 square feet;

(D) would not result in development within an environmental buffer, except for the allowable uses stated in the environmental guidelines; and

(E) preserves forest in any on-site floodplains, stream buffers, steep slopes, critical habitats, and areas designated as priority save areas in a master plan or functional plan;

- (t) a modification to a:

- (1) non-residential developed property if:

* * *

(E) the modification does not increase the developed area by

more than 50[%] percent, and any existing principal building, as defined in Chapter 59, is retained; and

(F) the pending development application does not propose any residential uses; or

(2) residential developed property if:

* * *

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

* * *

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

* * *

(3) executed a binding maintenance agreement for planting and maintenance of mitigation trees for at least 5 years with the affected property owner or owners, or with the Maryland National-Capital Park and Planning Commission if the applicant is performing a stream restoration project on their own property. If an applicant is performing a stream restoration project on their own property, financial security is required under Section 22A-12(i)[.];

* * *

22A-6. Special provisions — Exemptions; tree save plans; and highway projects.

(a) *Tree save plan requirements.* An activity or development that [would be] is exempt under Section 22A-5 except for the clearing of a specimen or champion tree, [and] or that [would impact] impacts a [significant,] specimen[,], or champion tree, requires the approval of a

tree save plan. The tree save plan must require tree preservation or planting of mitigation trees at a ratio of [1] one caliper inch replaced for every 4 inches of trunk diameter removed, measured at 4.5 feet above the ground, based on the size and character of the trees to be cleared. If trees to be cleared are part of an existing recorded scenic buffer between public parkland and a proposed development, trees that are smaller than specimen size may be included in the tree save plan.

* * *

22A-11. Application, review, and approval procedures.

(a) General.

(1) *Application.* The submission of a development plan, floating zone plan, project plan, sketch plan, subdivision plan, site plan, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, special exception, conditional use, mandatory referral, park development plan, or sediment control permit under this Section must include an approved forest stand delineation or a confirmed exemption from submitting a forest conservation plan under Section 22A-5.

(2) *Coordinated with project review.* The forest conservation plan must be submitted and reviewed in conjunction with the review process for a development plan, floating zone plan, project plan, subdivision plan, site plan, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, special exception, conditional use, mandatory referral, park development plan, or sediment control permit under this Section. The Planning Director must coordinate review of the forest conservation plan with the Director of Environmental Protection,

the Director of Permitting Services, the Washington Suburban Sanitary Commission, other relevant regulatory agencies, and entities that will provide public utilities to the tract, to promote consistency between the objectives of this Chapter and other development requirements. To the extent practicable, entities providing public utilities should design facilities that will serve a tract in a manner that avoids identified conservation areas and minimizes tree loss.

* * *

(4) *Notice.* Public posting and written notice of forest conservation plan applications must be provided by applicants as specified in Section 50/59.10.01.04, as amended, of the Administrative Procedures for Development Review.[.]

(b) *Project requiring development plan, floating zone plan, project plan, preliminary plan of subdivision, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, or site plan approval.*

(1) Forest stand delineation. The applicant must submit to the Planning Director a forest stand delineation and the forest stand delineation must be approved before the applicant may submit an application for a development plan, floating zone plan, project plan, preliminary plan of subdivision, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, or site plan. Within 30 days of receipt, the Planning Director must notify the applicant whether the forest stand delineation is complete and correct. If the Planning Director fails to notify the applicant within 30 days, the

delineation will be treated as complete and correct. The Planning Director may require further information or provide for one extension of this deadline for an additional 15 days for extenuating circumstances. The applicant must submit revised drawings to address comments within 90 days from the date the Planning Director sends comments to the applicant. If the applicant fails to submit revised drawings, the application is deemed withdrawn. The Planning Director may provide for one extension of this deadline for extenuating circumstances.

(2) Forest conservation plan.

(A) *Application.* After being notified that the forest stand delineation is complete and correct, the applicant must submit a forest conservation plan to the Planning Director with the related application for a development plan, floating zone plan, project plan, preliminary plan of subdivision, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, or site plan. If the development proposal will require more than one of the approvals subject to this subsection, the applicant must submit a preliminary forest conservation plan to the Planning Director in conjunction with the first approval and a final forest conservation plan in conjunction with the last approval. If only one approval subject to this subsection is required, an applicant must submit a preliminary forest conservation plan and a final forest conservation plan at the time of the development application. The applicant must own the property subject

to the forest conservation plan or be authorized by the owner to file the application.

* * *

(C) *Approval.* The Planning Board must review and act on the forest conservation plan concurrently with the development plan, floating zone plan, project plan, preliminary plan of subdivision, [[biohealth priority campus plan, mixed-income community plan,]] expedited approval plan, or site plan, as appropriate. Compliance with the preliminary forest conservation plan[,] as amended by the Board, must be made a condition of any approval of the first applicable development application. Compliance with the final forest conservation plan, as amended by the Board, must be made a condition of any approval of the last development application. For a development plan or a floating zone plan, [a Planning Board recommendation to the District Council on the preliminary forest conservation plan must be made under Section 59-7.2.1] the Planning Board must approve the preliminary forest conservation plan. A final forest conservation plan must be approved by the Planning Board or Planning Director, as appropriate, before the Planning Board approves a record plat.

* * *

22A-12 Retention, afforestation, and reforestation requirements.

* * *

(b) *Retention.*

* * *

- (2) In general, areas protected under this subsection include:
- (A) floodplains, stream buffers, steep slopes, and critical habitats;
 - (B) contiguous forests;
 - (C) forests suitable for forest interior-dwelling species;
 - (D) forest located in a Tier II or Tier III high quality watershed as identified by the Maryland Department of Environment;
 - (E) forest located in a water resource protection zone, a reservoir watershed, or a wellhead protection area;
 - (F) forests in urban areas as defined in Section 5-1607(c)(vi) of the Natural Resources Article of the Maryland Code;
 - (G) rare, threatened, and endangered species;
 - [(D)] (H) trees connected to [[an]] a historic site;
 - [(E)] (I) champion trees and other exceptionally large trees; and
 - [(F)] (J) areas designated as priority save areas in a master plan or functional plan.
- (3) The following trees, shrubs, plants, and specific areas are priority for retention and protection and must be left in an undisturbed condition unless the Planning Board or Planning Director, as appropriate, finds that the applicant qualifies for a variance under Section 22A-21:

* * *

- (B) Any tree that is:
- (i) [[1]] one inch in caliper or larger and part of a historic site or located within [[an]] a historic district[,];

- (ii) associated with a historic structure[,]; or
- (iii) designated by the State or County as a national, State, or County champion tree;

(C) Any tree with a diameter, measured at 4.5 feet above the ground, of:

- (i) 30 inches or more; or
- (ii) 75[%] percent or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species; or

(D) Any forest in a floodplain or stream buffer, except if the activity occurring within the floodplain or stream buffer is permitted under the environmental guidelines.[.]

* * *

(d) *Afforestation.*

* * *

(3) Solar photovoltaic facilities may not be subject to afforestation requirements in this chapter. Solar photovoltaic facilities are subject to all other requirements in this chapter.

(e) *Standards for reforestation and afforestation.*

* * *

(3) *Priority areas and plantings.* Afforestation and reforestation should be directed to stream buffer areas, environmental buffers, connections between and additions to forested areas, critical habitat areas and adjacent forest buffers, topographically unstable areas, and land use and road buffers. The use of native plant materials is preferred.

(4) *Location requirements.*

(A) Except as permitted under subparagraphs (B) and (C) of this paragraph, required reforestation or afforestation must occur in both the county and the 8-digit watershed in which the project is located[.].

* * *

(5) *Deadline for plant installation.* The afforestation and reforestation requirements under this subsection must be accomplished within [1] one year or 2 growing seasons after a development project is complete.

* * *

(f) *Special provisions for minimum retention, reforestation and afforestation.*

* * *

(2) Retention, reforestation and afforestation. Forest retention should be maximized where possible on each site listed in this subsection. At a minimum, on-site forest retention, and in some cases reforestation and afforestation, must be required as follows:

(A) In an agricultural and resource area, on-site forest retention must equal 25[%] percent of the net tract area.

* * *

22A-13. Forest mitigation banks.

* * *

(b) The area of land included in the bank must be at least [1] one acre.

* * *

(e) The forest mitigation bank plan must include:

* * *

(4) the number of forest mitigation bank credits available for sale as either:

(A) [if permitted by state law,] existing forest credits, where [1] one acre of forest mitigation bank credit equals 2 acres of existing forest; or

(B) planted forest credits, where [1] one acre of forest mitigation bank credit equals [1] one acre of planted forest.

* * *

(g) *Purchasing and selling forest mitigation bank credits.*

* * *

(3) Credits may only be debited from forest mitigation banks that protect all or part of an existing forest to meet up to 50 percent of the afforestation or reforestation requirement.

[(3)] (4) Forest mitigation bank credits must be acquired from a forest mitigation bank within the same 8-digit watershed, as delineated by the State of Maryland, where the development activity is located. If forest mitigation bank credits are not available within the same 8-digit watershed within the County, applicants must acquire forest mitigation bank credits from a forest mitigation bank within a priority 8-digit watershed, special protection area, or the Patuxent Primary Management Area (PMA). If forest mitigation bank credits are not available within a priority 8-digit watershed, special protection area, or the Patuxent Primary Management Area (PMA), applicants may acquire forest mitigation bank credits from any approved forest mitigation bank within the County.

460 [(4)] (5) The forest mitigation bank credits acquired must be equal
 461 to the applicant's off-site reforestation or afforestation
 462 requirements under the approved forest conservation plan.

463 * * *

464 **22A-15. Inspections and Notifications.**

465 * * *

466 (b) *Plan to be on site; field markings.* A copy of the approved forest
 467 conservation plan, tree save plan, or confirmed forest conservation
 468 exemption, as applicable, must be available on the site for inspection
 469 by representatives authorized by the Planning Director. Field markings
 470 must exist on site before and during installation of all protective
 471 devices, construction, or other land disturbing activities.

472 * * *

Approved:

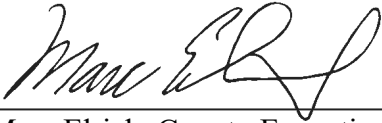


Kate Stewart, President, County Council

September 16, 2025

Date

Approved:



Marc Elrich, County Executive

September 29, 2025

Date

This is a correct copy of Council action.



Sara R. Tenenbaum, Clerk of the Council

September 29, 2025

Date