

Expedited Bill No. 14-07  
Concerning: Forest Conservation – Enforcement  
Revised: 6-25-07 Draft No. 3  
Introduced: June 26, 2007  
Expires: December 26, 2008  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Elrich and Council President Praisner

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**AN EXPEDITED ACT** to:

- (1) prohibit the Director of Permitting Services from issuing a building permit if land was cleared in violation of the forest conservation law;
- (2) require certain applicants to notify certain other property owners of certain proposed actions under the forest conservation law, and specify the time period for notice to property owners and the Planning Director;
- (3) allow an aggrieved party to file a private civil action to enforce the forest conservation law; and
- (4) generally amend the enforcement provisions of the forest conservation law.

By amending

Montgomery County Code  
Chapter 8, Buildings  
Section 8-25

Chapter 22A, Forest Conservation – Trees  
Sections 22A-4 and 22A-16

<b>Boldface</b>	<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:*

1 **Sec. 1. Section 8-25 is amended as follows:**

2 **8-25. Permits.**

3 (a) *Action on application.* The Director must examine or cause to be  
 4 examined each application for a building permit or an amendment to a  
 5 permit within a reasonable time after the application is filed. If the  
 6 application or the plans do not conform to all requirements of this  
 7 Chapter, the Director must reject the application in writing and specify  
 8 the reasons for rejecting it. If the proposed work conforms to all  
 9 requirements of this Chapter and all other applicable laws and  
 10 regulations, including Chapter 22A, the Director must issue a permit for  
 11 the work as soon as practicable.

12 \* \* \*

13 (c) [Reserved.] Compliance with forest conservation law. The Director  
 14 must not issue a permit for any structure that would be located on, in, or  
 15 under land from which any tree or other woody plant has been cut,  
 16 cleared, or graded in violation of Chapter 22A.

17 \* \* \*

18 **Sec. 2. Section 22A-4 is amended as follows:**

19 **22A-4. Applicability.**

20 \* \* \*

21 Any person who expects to cut, clear, or grade more than 5000 square feet of  
 22 forest or any champion tree, and who believes that the cutting, clearing, or grading is  
 23 exempt under Section 22A-5, 22A-6, 22A-7, or 22A-8, must notify the Planning  
 24 Director and the owner of any adjoining or confronting property in writing at least 10  
 25 days before performing any cutting, clearing, or grading, and seek confirmation from  
 26 the Director that the cutting, clearing, or grading is in fact exempt from Article II.  
 27 Failing to notify the Director and any property owner entitled to notice as required by

28 this Section, or performing any cutting, clearing, or grading before the Director  
 29 confirms that an exemption applies, is a violation of this Chapter.

30 \* \* \*

31 **Sec. 3. Section 22A-16 is amended as follows:**

32 **22A-16. Penalties and other remedies.**

33 (a) *Class A violation.* Violation of this Chapter or any regulations adopted  
 34 under it is a Class A civil or criminal violation. Notwithstanding  
 35 Section 1-19, the maximum civil fine is \$1,000. Each day a violation  
 36 continues is a separate violation under this Chapter.

37 (b) *Enforcement authority.* The Maryland-National Capital Park and  
 38 Planning Commission has primary enforcement authority under this  
 39 Chapter. [Administrative] The Planning Director may initiate  
 40 administrative enforcement actions [are to be initiated by the Planning  
 41 Director in accordance with] under this Article.

42 (c) *Civil and criminal actions.* The Commission may bring any civil or  
 43 criminal action that the County may bring under Sections 1-18, 1-19,  
 44 and 1-20 to enforce this Chapter or any regulation adopted under it. The  
 45 Commission may also bring a civil action to enforce a forest  
 46 conservation plan and any associated agreements and restrictions or to  
 47 enforce an administrative order. These remedies are in addition to:

48 (1) any remedy that the Commission or County may initiate under  
 49 state or County law to enforce the terms of a regulatory approval  
 50 which incorporates a forest conservation plan; and

51 (2) any private civil remedy available under subsection (d).

52 (d) *Private civil action.* An aggrieved person may file a civil action in any  
 53 court with jurisdiction to enforce this Chapter or any forest conservation  
 54 plan, administrative order, or other regulatory approval under it. An

55 aggrieved person includes the owner of any adjoining or confronting  
56 property. In an action filed under this subsection, the court may  
57 temporarily or permanently enjoin any violation or imminent violation  
58 of County law, order any person to correct any violation of County law,  
59 award damages to any person entitled to them by law, remand the  
60 matter to the Board for any necessary action under this Chapter, or order  
61 any other appropriate remedy. In an action filed under this subsection,  
62 an aggrieved person may challenge the factual basis of any order or  
63 decision by the Director if the person shows that the order or decision  
64 was:

65 (1) based on materially false, misleading, inaccurate, or incomplete  
66 information; or

67 (2) taken without proper notice to any person who was entitled to  
68 notice under this Chapter.

69 ~~[(d)]~~ (e) \* \* \*

70 [(e)] (f) \* \* \*

71 **Sec. 2. Expedited Effective Date.** The Council declares that this  
72 legislation is necessary for the immediate protection of the public interest. This Act  
73 takes effect on the date on which it becomes law.

74 *Approved:*

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\_\_\_\_\_  
Marilyn J. Praisner, President, County Council Date

77 *Approved:*

78  
79  
\_\_\_\_\_  
Isiah Leggett, County Executive Date

80 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date