

Expedited Bill No. 21-13
Concerning: Forest Conservation -
Enforcement
Revised: 7-1-2013 Draft No. 1
Introduced: July 9, 2013
Enacted: July 30, 2013
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President on behalf of the Montgomery County Planning Board

AN EXPEDITED ACT to:

- (1) clarify the enforcement authority of the Planning Board in the forest conservation law; and
- (2) generally amend the law governing the enforcement of forest conservation requirements.

By amending

Montgomery County Code
Chapter 22, Forest Conservation
Article III, Enforcement, Appeals, and Variances
Sections 19-21, and 19-22A

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-16 and Section 22A-20 are amended as follows:

22A-16. Penalties and other remedies.

* * *

(b) ***Enforcement authority.*** The Planning Board has primary enforcement authority under this Chapter. The Board's enforcement authority includes holding enforcement hearings, imposing administrative civil penalties, ordering corrective actions, ordering the payment of civil fines, ordering compliance with corrective action orders, and any other action authorized by law. [Administrative enforcement actions may be initiated by the] The Planning Director may initiate an administrative enforcement action under this Article.

(c) **Civil actions.** The Board may bring any civil action authorized by law that the County may bring under [Sections] Section 1-18, 1-19, [and] or 1-20 to enforce this Chapter or any regulation adopted under it. The Board may also bring a civil action to enforce:

(1) a forest conservation plan and any associated [agreements, easement, and restrictions,] agreement or restriction, including any easement; or

(2) [to enforce] an administrative order.

These remedies are in addition to any remedy that the Board or the County may initiate under state or County law to enforce the terms of a regulatory approval which incorporates a forest conservation plan.

(d) *Administrative civil penalty.*

(1) In addition to any other remedy under this Article, a person who violates this Chapter, any regulation adopted under it, a forest conservation plan, or any associated agreement or restriction, including any easement, is liable for an administrative civil

penalty imposed by the Planning Board. This administrative civil penalty must not exceed the rate set by the County Council by law or resolution, except as provided in paragraph (3), but must not be less than the amount specified in Section 5-1608(c) of the Natural Resources Article of the Maryland Code. Each day a violation is not corrected is a separate violation.

* * *

22A-20. Hearings and appeals

* * *

(d) *Administrative enforcement process.*

* * *

(2) *Hearing.*

* * *

(C) The Planning Board may designate a hearing officer, including a Hearing examiner from the Office of Zoning and Administrative Hearings, to conduct a hearing and submit a report and recommendation on any alleged violation of this Chapter. The hearing officer must submit the required report and recommendation to the Board not later than [60] 30 days after the hearing record closes. The hearing officer may extend the time to file the report by notifying all parties.

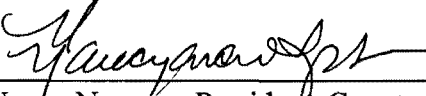
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Sec. 2. Expedited Effective Date.

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

- (b) Any amendment to County Code Chapter 22A made by Section 1 of this Act applies to any enforcement action that the Planning Board takes after this Act takes effect, regardless of whether the alleged violation to which the enforcement action applies was committed before or after this Act took effect.

Approved:



Nancy Navarro, President, County Council

7/30/3

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date