

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2014 Legislative Session

Legislative Day No. 3

Bill No. 10 -2014

Introduced by: The Chairperson at the request of the County Executive

AN ACT allowing certain fees-in-lieu to be used to create urban tree canopy; defining certain terms; allowing certain fees-in-lieu to be used for the maintenance of existing forests in accordance with State law; and generally relating to forest conservation in Howard County.

Introduced and read first time _____, 2014. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2014.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2014 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2014 at ___ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved by the County Executive _____, 2014

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 Howard County Code is amended as follows:

3 By amending:

4 1. Title 16. Planning, Zoning and Subdivisions and Land Development
5 Regulations.

6 Section 16.1201. Definitions.

7

8 2. Title 16. Planning, Zoning and Subdivisions and Land Development
9 Regulations.

10 Section 16.1211. Forest Conservation Fund.

11

12 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

13 **Subtitle 12. Forest Conservation.**

14

15 **Section 16.1201. Definitions.**

16 Words and phrases used in this subtitle have their usual meaning unless defined in the
17 subdivision regulations [subtitle 1 of this title] or in this section:

18 (a) *Afforestation* means the establishment of new forest on an area presently without
19 forest cover, by planting in accord with the practices specified in the Forest Conservation
20 Manual.

21 (b) *Declaration of intent* means a statement signed by a landowner or developer
22 certifying that:

23 (1) A proposed development is exempt from the requirement for an approved
24 forest conservation plan; and

25 (2) No activity requiring a forest conservation plan will occur on the site
26 within five years of the date of the completion of the exempt activity.

27 (c) *Department* means the Howard County Department of Planning and Zoning.

28 (d) *Development* means the establishment of a principal use of a site; a change in a
29 principal use of a site; or the improvement or alteration of a site by the construction,
30 enlargement, or relocation of a structure; the provision of stormwater management or

1 roads; the grading of existing topography; the clearing or grubbing of existing vegetation;
2 or any other nonagricultural activity that results in a change in existing site conditions.

3 (e) *Forest* means a biological community dominated by trees and other woody plants
4 covering an area of 10,000 square feet or greater that is at least 35 feet wide. *Forest*
5 includes:

6 (1) Areas with a tree cover ratio 100 trees per acre with at least 50 percent of
7 these trees being at least two inches in diameter at a height of four and
8 one-half feet above ground; or

9 (2) Areas meeting the criteria above that have been cut but not cleared.

10 *Forest* does not include orchards, tree nurseries, Christmas tree farms or
11 other types of forest crops.

12 (f) *Forest conservation* means the retention of existing forest or the creation of new
13 forest at the levels set by this subtitle.

14 (g) *Forest Conservation Manual* means the technical manual approved by the County
15 Council containing performance standards and guidelines for implementation of the
16 Howard County Forest Conservation Program.

17 (h) *Forest Conservation Plan* means a plan which shows the impacts of a proposed
18 development on existing forest resources. A *forest conservation plan* includes existing
19 forest areas to be removed or retained; the location, extent and specifications for any
20 reforestation or afforestation required; and legal measures to protect forest resources after
21 completion of development in accordance with section 16.1203 below.

22 (i) *Forest mitigation banking* means the planting of trees, according to plans approved by
23 the Department, to be used as credit for plantings required under this subtitle.

24 (j) *Forest stand delineation* means the evaluation, pursuant to section 16.1204 of this
25 subtitle, of existing forests and other vegetation on a site proposed for development.

26 (k) *Limit of disturbance* means the boundary of permitted changes to existing site
27 conditions due to clearing and grading, as well as other activities associated with site
28 development such as parking of vehicles and equipment, storage of materials, and
29 disposal of construction debris.

30 (l) *Lot* means a unit of land, the boundaries of which have been established as a result of
31 a deed or previous subdivision of a larger parcel and which will not be the subject of

1 further subdivision, as defined by the Natural Resources Article section 5-1601,
2 Annotated Code of Maryland, and this subtitle without an approved forest stand
3 delineation and forest conservation plan.

4 (m) *Manual* means the Forest Conservation Manual.

5 (n) *Net tract area* means the total area to the nearest one-tenth acre, whether forested or
6 not, of a proposed development, exclusive of any 100-year floodplain, utility
7 transmission line easements, or preservation parcel as referenced in the zoning
8 regulations. *Net tract area* is to be used in calculating any reforestation or afforestation
9 obligations that may be created by the proposed development.

10 (o) *Planned business park* means a commercial-industrial subdivision developed with an
11 integrated plan that provides common infrastructure and protection of environmentally
12 sensitive features.

13 (p) *Planned unit development* means a development comprised of a combination of land
14 uses or varying intensities of the same land use in accordance with an integrated plan that
15 provides flexibility in design with at least 20 percent of the land permanently dedicated to
16 open space.

17 (q) *Reforestation* means the establishment, in accordance with the Howard County
18 Forest Conservation Manual, of new forest cover to replace forest resources lost because
19 of development activities.

20 (r) *Scenic road* means a public road or road segment that is included in the scenic roads
21 inventory adopted by the County Council in accordance with section 16.1403 of this
22 Code.

23 (s) *Subdivision regulations* means title 16, subtitle 1 of the Howard County Code,
24 entitled "Subdivision and Land Development Regulations."

25 (T) *URBAN CANOPY* MEANS TREE CANOPY INSIDE THE PLANNED SERVICE AREA FOR
26 WATER AND SEWER THAT DOES NOT MEET THE DEFINITION OF FOREST BUT THAT DOES
27 PROVIDE AIR QUALITY, WATER QUALITY, AND HABITAT BENEFITS.

28 ([[t]]U) *Other terms* which are defined in the Natural Resources Article section 5-1601,
29 "Definitions," Annotated Code of Maryland, COMAR 08.19.01.03, "Definitions," and
30 COMAR 08.19.03, article II, "Forest and Tree Conservation Definitions," are

1 incorporated by reference and shall apply to this subtitle for any terms which are not
2 defined in this section or the Manual.

3

4 **Section 16.1211. Forest conservation fund.**

5 (a) *Fund Established.* The Director of Finance shall establish an account to be known as
6 the forest conservation fund. No monies deposited in this account may revert to the
7 general fund.

8 (b) *Source of Moneys in Forest Conservation Fund.* Fees paid in-lieu of reforestation or
9 afforestation under section 16.1210 of this subtitle and noncompliance fees paid pursuant
10 to subsection (c) of this section shall be deposited in the forest conservation fund. Interest
11 earned by money in the forest conservation fund shall remain in the fund.

12 (c) *Noncompliance Penalties.* The noncompliance penalty is a fine per square foot of
13 forest cut, cleared or graded which may be assessed against violators of this subtitle as
14 specified in section 16.1212 of this subtitle. The amount of the noncompliance penalty is
15 set by resolution of the County Council, and in no event shall it be less than the minimum
16 set by State law.

17 (d) *Use of Forest Conservation Fund:*

18 (1) The minimum in-lieu-of fees established by the State may be expended by
19 the County:

20 (i) For afforestation or reforestation within Howard County, including
21 site identification, acquisition, and preparation[[]; and]]

22 (ii) For acquisition of forest retention [[easements.]]EASEMENTS;

23 (III) FOR MAINTENANCE OF EXISTING FORESTS; AND

24 (IV) FOR CREATING URBAN CANOPY.

25 (2) In-lieu-of fees above the State minimums and noncompliance penalties
26 may be used by the County for any purposes related to implementation of
27 the County Forest Conservation Program.

28

29 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
30 Maryland, that this Act shall become effective 61 days after its enactment.