

Office of the County Auditor

Auditor's Analysis

Council Bill No. 57-2021

Introduced: July 6, 2021

Auditor: Michael A. Martin

Fiscal Impact:

We anticipate that the legislation will increase the collection of fines resulting from noncompliance, however due to the reasons identified in the comments below, we are unable to estimate the fiscal impact at this time.

According to the Director of the Department of Planning and Zoning (the Director), the changing of the terminology from a fine per square foot of “forest cut, cleared, or graded” to “vegetation disturbed and per inch circumference of tree measured at 4.5 feet above the ground disturbed” will result in increased County revenues from fines, but it will be challenging to quantify this increase until they have a better understanding of the legislation’s text. The Director has the opinion that the proposed language of the bill is vague compared to how it currently reads and that terms such as “disturbed” and “vegetation removed” are not sufficiently defined.

The bill also modifies text so that the Department of Recreation and Parks (DRP) “shall” collect fines associated with noncompliance instead of how it currently states they “may” collect such penalties. This change will remove DRP’s ability to work with property owners to abate their fines, which is how most residential violations are handled. Per the Director, out of the 22 recorded residential violations in FY 2019 and FY 2020 combined, only one in each year resulted in fines.

Attachment A shows a breakdown of noncompliance incidents and associated fines for FY 2019 and FY 2020.

Purpose:

This legislation enhances enforcement measures and penalties for violations of the Forest Conservation Act of Howard County by:

- Broadening the language as to what triggers noncompliance,
- Requiring fines for each instance of noncompliance,
- Providing measures for the suspension of Forest Conservation plans due to noncompliance, and
- Establishing criteria that would enable the County to revoke any granted exceptions to on-site plans.

Other Comments:

Per the Director:

- The Department of Recreation and Parks manages a record of noncompliance, which is broken into two categories: construction (developers) and post-construction (residential). In both cases, DRP works with the property owners when noncompliance arises in order to achieve compliance. This can be accomplished through penalties, replanting, and ongoing inspections.
- Typically, there have not been fines associated with construction forest conservation projects unless the developer were to default on the project, in which case funds are used to bring the site back to compliance.
- Outside of the developer inspection process, DRP has traditionally conducted forest conservation enforcement based on complaints, meaning the change in language from “may” to “shall” will unlikely impact the total number of cases, but rather how the department works with individuals to achieve compliance.

Attachment A

DRP Noncompliance Records	FY 2019	FY 2020
Total Developer Inspections	138	131
Developer Inspection Failures	80	84
Developer Violations w/ Fines	-	-
Residential Violations*	7	15
Residential Violations w/ Fines	1	1
Annual Revenues from Fines	\$1,900	\$4,406

***Residential violations that did not incur a fine under the current County Code would now be required to get the property into compliance, as well as pay a fine. There would no longer be the option for DRP to work with property owners and abate penalties from violations.**