

Introduced	<u>9-8-2021</u>
Public Hearing	<u>9-20-2021</u>
Council Action	<u>11-1-2021</u>
Executive Action	<u>11-3-2021</u>
Effective Date	<u>1-3-2022</u>

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No # 15

Bill No. 66 -2021

Introduced by Liz Walsh

AN ACT removing exemptions from the Forest Conservation Plan requirements for certain Planned Unit Developments and Planned Business Parks; preserving an existing exemption to the Forest Conservation Plan requirements for certain HOMEOWNERS ASSOCIATIONS THAT HAVE A FOREST STEWARDSHIP PLAN APPROVED DRAFTED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES; preserving an existing exemption to the Forest Conservation Plan requirements for certain Howard County Public School System Properties; and generally relating to forest conservation in the County.

Introduced and read first time Sept 8, 2021. Ordered posted and hearing scheduled.
 By order Michelle Harrod
 Michelle R. Harrod, 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 Sept 20, 2021.
 By order Michelle Harrod
 Michelle R. Harrod, Administrator

This Bill was read the third time on Nov 1, 2021 and Passed Passed with amendments Failed .
 By order Michelle Harrod
 Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 2 day of Nov, 2021 at 4:00 a.m./p.m.
 By order Michelle Harrod
 Michelle R. Harrod, Administrator

Approved by the County Executive November 3, 2021
Calvin Ball
 Calvin Ball, 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 *Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations*

5 *Subtitle 12. Forest Conservation.*

6 *Section 16.1202. Applicability; exemptions; declaration of intent.*

7 *Subsection (b) Exemptions to Requirement for Forest Conservation*
8 *Plans.*

9 *Number (1) Exemptions not requiring a Declaration of Intent.*

10
11 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

12 **Subtitle 12. Forest Conservation.**

13
14 **Sec. 16.1202. Applicability; exemptions; declaration of intent.**

15 (a) *Forest Conservation Plan Required for Subdivision Plan, Site Development Plan or*
16 *Grading Permit.* Unless exempted by subsection (b) of this section, any person or
17 unit of local government developing land 40,000 square feet or greater in area shall
18 file a forest conservation plan with the Department. Plan approval is required prior
19 to development and prior to approval of a:

20 (1) Subdivision plan;

21 (2) Site development plan;

22 (3) Grading permit; or

23 (4) County road and utility construction plans.

24 (b) *Exemptions to Requirement for Forest Conservation Plans.*

25 (1) *Exemptions not requiring a Declaration of Intent.* The following development
26 is exempt from the requirement of this subtitle:

1 (i) Development activity on a single lot smaller than 40,000 square feet, as
2 long as the cutting, clearing or grading does not include any area already
3 subject to a previously approved forest conservation plan.

4 ~~[[~~(ii) A Planned Unit Development which has preliminary development plan
5 approval and 50 percent or more of the land is recorded and substantially
6 developed before December 31, 1992. If new land area is added to the
7 planned unit development, that new land area is subject to this subtitle;

8 (iii) A planned business park of at least 75 acres which has preliminary plan
9 approval before December 31, 1992, and which meets the intent of this
10 subtitle by retaining forest in high-priority locations (floodplains,
11 wetlands, wetland and stream buffers, steep slopes, and/or wildlife
12 corridors/green infrastructure network);]]

13 (ii) ANY PROPERTY OWNED BY A HOMEOWNERS ASSOCIATION IN A PLANNED
14 UNIT DEVELOPMENT WHICH HAS PRELIMINARY DEVELOPMENT PLAN APPROVAL
15 AND 50 PERCENT OR MORE OF THE LAND IS RECORDED AND SUBSTANTIALLY
16 DEVELOPED BEFORE DECEMBER 31, 1992, IF THE HOMEOWNERS ASSOCIATION HAS
17 A FOREST STEWARDSHIP PLAN APPROVED DRAFTED BY THE MARYLAND
18 DEPARTMENT OF NATURAL RESOURCES;”

19
20 (~~iii~~) III ANY PROPERTY OWNED BY THE HOWARD COUNTY PUBLIC SCHOOL
21 SYSTEM IN A PLANNED UNIT DEVELOPMENT WHICH HAS PRELIMINARY
22 DEVELOPMENT PLAN APPROVAL AND 50 PERCENT OR MORE OF THE LAND IS
23 RECORDED AND SUBSTANTIALLY DEVELOPED BEFORE DECEMBER 31, 1992;

24
25 ~~[[iv]]~~ IV Any agricultural activity, including agricultural support
26 buildings and structures built using accepted best management practice

- 1 unless it involves the clearing of 40,000 square feet or greater of forest
- 2 within a 1-year period;
- 3 (~~[[v]]~~~~III~~ ~~IV~~ V) Agricultural preservation subdivision, unless it involves the
- 4 clearing of 20,000 square feet or greater of forest;
- 5 (~~[[vi]]~~~~IV~~ ~~V~~ VI) Resubdivisions, that do not create additional lots, deed
- 6 adjoinders, property consolidations, reconfigurations and correction plats
- 7 as provided for in sections 16.102 and 16.103 of this title;
- 8 (~~[[vii]]~~~~V~~ ~~VI~~ VII) Minor subdivisions that create one additional lot and have
- 9 no further subdivision potential;
- 10 (~~[[viii]]~~~~VI~~ ~~VII~~ VIII) Mining or other extractive activity exempted by state law
- 11 from the forest conservation requirements;
- 12 (~~[[ix]]~~~~VII~~ ~~VIII~~ IX) Routine maintenance of existing roads and public utility
- 13 rights-of-way;
- 14 (~~[[x]]~~~~VIII~~ ~~IX~~ X) Highway construction using full or partial state funding is
- 15 exempt from this subtitle but subject to state reforestation requirements set
- 16 forth in title 5, subtitle 1 of the Natural Resources Article of the Annotated
- 17 Code of Maryland;
- 18 (~~[[xi]]~~~~IX~~ ~~X~~ XI) The cutting or clearing of public utility rights-of-way, or
- 19 land for electric generating stations licensed pursuant to title 7, subtitle 2
- 20 of the Public Utility Companies Article of the Annotated Code of
- 21 Maryland, if:
- 22 a. Required certificates of public convenience and necessity have been
- 23 issued in accordance with the Natural Resources Article, section 5-
- 24 1603(f), Annotated Code of Maryland; and
- 25 b. Cutting or clearing of the forest is conducted to minimize the loss of
- 26 forest.

1 (~~[[ii]]~~ ~~XI~~ XII) Howard County capital improvement projects, including
2 those with partial state funding, provided that:

- 3 a. The activity is conducted on a single lot of any size;
- 4 b. The activity does not result in the cutting, clearing or grading of more
5 than 20,000 square feet of forest; and
- 6 c. The impacted forest is not subject to a previously approved forest
7 conservation plan;

8 (~~[[xiii]]~~ ~~XII~~ XIII) An activity on a previously developed area covered by an
9 impervious surface and located in the Priority Funding Area;

10 (~~[[xiv]]~~ ~~XIII~~ XIV) Maintenance or retrofitting of a stormwater management
11 structure that may include clearing of vegetation or removal and trimming
12 of trees, so long as the maintenance or retrofitting is within the original
13 limits of disturbance for construction of the existing structure, or within
14 any maintenance easement for access to the structure; or

15 (~~[[xv]]~~ ~~XIII~~ XIV XV) Stream restoration project, as defined in this subtitle, for
16 which the applicant for a grading or sediment control permit has executed
17 a binding maintenance agreement of at least five years with the affected
18 property owner or owners.

19 (2) *Exemptions requiring a Declaration of Intent.* The following development is
20 exempt from the requirements of this subtitle, provided that the developer files
21 a Declaration of Intent with the Department as provided in subsection (c)
22 below:

- 23 (i) Residential development on an existing single lot of any size if:
 - 24 a. The total cutting, clearing or grading of forest resources is less than
25 20,000 square feet; and

1 b. The forest resources affected by the development are not subject to a
2 previously approved forest conservation plan;

3 (ii) Commercial logging and timber harvesting operations conducted subject
4 to the forest conservation and management program under the Tax-
5 Property Article section 8-211, Annotated Code of Maryland;

6 (iii) Any agricultural activity, including agricultural support buildings and
7 structures built using accepted best management practice involving the
8 clearing of 40,000 square feet or greater of forest within a one-year period;

9 (iv) Subdivision in connection with real estate transactions to provide a
10 security, leasehold, or other legal or equitable interest, including a transfer
11 of title, of a portion of a lot or parcel, if:

12 a. The transaction does not involve a change in land use, or new
13 development or redevelopment, with associated land-disturbing
14 activities; and

15 b. Both the grantor and grantee file the declaration of intent; and

16 (v) Linear projects that are not exempt and that disturb less than 20,000 square
17 feet of forest, if the impacted forest is not subject to a previously approved
18 forest conservation plan.

19 (c) *Declaration of Intent.*

20 (1) A person seeking an exemption under subsection (b) above shall submit a
21 declaration of intent to the Department to verify that the proposed activity is
22 exempt.

23 (2) No regulated activity may occur on the area covered by the Declaration of
24 Intent within five years of the completion of cutting, clearing or grading of
25 forest resources, or in the case of real estate transactions, within five years of
26 the effective date of the declaration of intent.

- 1 (3) The Department may require a person failing to file a declaration of intent or
2 found not in compliance with a declaration of intent to perform one or any
3 combination of the following:
- 4 (i) Meet the retention, reforestation and afforestation requirements established
5 by this subtitle;
 - 6 (ii) Pay a penalty fee established by fee schedules approved by resolution of
7 the County Council per square foot of forest cut or cleared, but in no case
8 less than the minimum set by state law;
 - 9 (iii) Be subject to other enforcement actions appropriate under title 5, subtitle
10 16 of the Natural Resources Article of the Annotated Code of Maryland,
11 and this subtitle; or
 - 12 (iv) File a declaration of intent with the Department.

13
14

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