

Office of the County Auditor
Auditor's Analysis

Council Bill No. 89-2021

Introduced: November 1, 2021

Auditor: Michael A. Martin

Fiscal Impact:

This legislation changes Department of Recreation and Parks (DRP) policy so the department “shall” collect fines associated with noncompliance with the Forest Conservation Act of Howard County. The County Code currently states that DRP “may” collect such penalties. According to the Director of DRP, out of a combined total of 22 recorded residential violations in Fiscal Years 2019 and 2020, only one in each year resulted in fines. Future penalty assessments cannot be estimated, as the number of annual Forest Conservation Act violations cannot be predicted.

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

Purpose:

This legislation creates a lookback provision for the disturbance of certain trees, requires fines for each instance of noncompliance, and allows for the suspension and revocation of plans for any willful or repeated violation of the forest conservation requirements. It also requires the Department of Planning and Zoning to maintain a record of all revocations, suspensions, and outcomes.

Other Comments:

The provisions of this legislation are similar to those proposed in Council Bill 78-2021 and CB79-2021, which were introduced in October 2021.

According to the Director of DRP, the department manages a record of noncompliance, which is broken into two categories: construction (developers) and post-construction (residential). Typically, there have not been fines levied on construction forest conservation projects unless the developer were to default on the project. If a developer defaults on a project, bonded funds from the developer are used to bring the site back to compliance with the Forest Conservation Act. These funds are part of the default process in which DRP provides an estimated cost to complete the remaining developer obligations on a project. If a developer defaults, these funds are deposited into Capital Project N3972 – “Defaulted Forest Conservation and Landscaping” and used by DRP to fulfill the developer’s obligations.

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 result in a fine under the current County Code would now incur a fine in addition to the requirement to comply with the relevant subtitle of the County Code.**