

Introduced 9-8-2021
Public Hearing 9-20-2021
Council Action 12-6-2021
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 15

Bill No. 64-2021

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

AN ACT prohibiting the cutting or clearing of certain specimen trees; providing that a property owner may proceed under certain conditions and upon the submission and approval of certain applications; providing for the contents of certain applications; providing for the criteria to use in the review of certain applications; providing for certain exemptions; requiring certain compliance; providing certain penalties for noncompliance; requiring surety for forest retention; defining certain terms; and generally related to forest conservation and the preservation of natural cover in Howard County.

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

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on Sept 20, 2021.
By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on Dec 6, 2021 and Passed _____, Passed with amendments _____, Failed
By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2021 at _____ a.m./p.m.
By order _____
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2021

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

Tabled 10-4-2021 Michelle Harrod
Extended 11-1-2021 Michelle Harrod
Tabled 11-1-2021 Michelle Harrod

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

3
4 *By inserting new subsections (b)(1.2) and (b)(48.1) into Section 16.108.*

5
6 *By amending:*

7 *Title 16, Subtitle 1.*

8 *Section 16.117.*

9
10 *Title 16, Subtitle 12.*

11 *Section 16.1210.*

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

14 **Subtitle 1. Subdivisions and Land Development Regulations.**

15 **Article 1. General**

16
17 **Section 16.108. Rules of Construction; definitions.**

18 (b) *Definitions.* As used in these regulations, the following terms shall be defined as follows:

19 (1.1) *Adjoining property* means land which is touching or would be touching in the absence
20 of an intervening utility or road right-of-way, other than a principal arterial highway,
21 shall be considered adjoining for purposes of this subtitle.

22 (1.2) *AGRICULTURAL ACTIVITY* MEANS THE USE OF LAND FOR AGRICULTURAL PURPOSES,
23 INCLUDING: DAIRYING, PASTURAGE, GROWING CROPS, BEE KEEPING, HORTICULTURE,
24 FLORICULTURE, ORCHARDS, PLANT NURSERIES, CHRISTMAS TREE FARMS, VITICULTURE,
25 AQUACULTURE, SILVICULTURE, AND ANIMAL AND POULTRY HUSBANDRY; THE BREEDING,
26 RAISING, TRAINING AND GENERAL CARE OF LIVESTOCK FOR USES OTHER THAN FOOD, SUCH
27 AS SPORT OR SHOW PURPOSES; CONSTRUCTION AND MAINTENANCE OF BARNs, SILOS, AND
28 OTHER SIMILAR STRUCTURES, THE USE OF FARM MACHINERY, THE PRIMARY PROCESSING OF
29 AGRICULTURAL PRODUCTS AND THE SALE OF AGRICULTURAL PRODUCTS PRODUCED ON THE
30 LAND WHERE THE SALES ARE MADE; AND OTHER USES DIRECTLY RELATED TO OR AS AN
31 ACCESSORY USE OF THE PREMISES FOR FARMING AND AGRICULTURAL PURPOSES.

1
2 (48) *Scenic road* means a public road or road segment that is included in the scenic roads
3 inventory adopted by the County Council in accordance with section 16.1403 of this Code.

4 (48.1) *SPECIMEN TREE* MEANS:

5 (i) A TREE WITH A DIAMETER OF 75 PERCENT OR MORE OF THE DIAMETER OF THE
6 CURRENT STATE CHAMPION TREE OF THAT SPECIES, MEASURED AT 4.5 FEET ABOVE
7 THE GROUND; OR

8 (ii) A TREE THAT IS 30 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE
9 THE GROUND.

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

12 **Subtitle 1. Subdivisions and Land Development Regulations.**

13 **Article II. Design Standards.**

14
15 **Section 16.117. Forest conservation, SPECIMEN TREE PROTECTION and preservation of**
16 **natural cover.**

17 (a) *Forest Resource Protection.* Land to be subdivided or developed shall be designed and
18 improved in reasonable conformity to existing topography in order to minimize clearing or
19 alteration of existing plant communities, especially forest areas, and to minimize associated
20 stormwater runoff and soil erosion impacts. Where required by subtitle 12 of this title, a forest
21 conservation plan shall be submitted.

22 (b) *Residential Restrictions.* In residential subdivisions forest conservation easements shall be
23 located in open space or a nonbuildable preservation parcel except as permitted in section 16.120
24 of this subtitle.

25 (c) *PROHIBITED CONDUCT.* UNLESS OTHERWISE PROVIDED IN THIS SECTION, A SPECIMEN TREE
26 MAY NOT BE CUT OR CLEARED ON ANY PROPERTY.

27 (d) A PROPERTY OWNER SHALL OBTAIN A NOTICE TO PROCEED FROM THE DEPARTMENT OF
28 PLANNING AND ZONING BEFORE CUTTING OR CLEARING A DEAD OR DISEASED SPECIMEN TREE OR
29 AN INVASIVE SPECIES SPECIMEN TREE, AS IDENTIFIED IN THE FOREST CONSERVATION MANUAL ON
30 A RESIDENTIAL LOT OF ONE ACRE OR LARGER, OR ON ANY NON-RESIDENTIAL LOT.

1 (E) *APPLICATION REQUIRED.* TO OBTAIN A NOTICE TO PROCEED, A PROPERTY OWNER SHALL
2 SUBMIT AN APPLICATION ON A FORM DEVELOPED BY THE DEPARTMENT, INCLUDING ALL REQUIRED
3 ATTACHMENTS.

4 (F) *CONTENTS OF APPLICATION.* THE NOTICE TO PROCEED APPLICATION SHALL INCLUDE, BUT IS
5 NOT LIMITED TO, ~~AN INVENTORY OF EACH SPECIMEN TREE TO BE CUT OR CLEARED THAT SHALL:~~

6 (1) FOR EACH NON-INVASIVE SPECIES SPECIMEN TREE TO BE CUT OR CLEARED:

7
8 ~~(1)~~ I INCLUDE THE DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND, SPECIES,
9 LOCATION, AND HEALTH OF EACH SPECIMEN TREE, INCLUDING AN ASSESSMENT OF
10 DISEASE AND VIABILITY; AND

11 ~~(2)~~ II BE PREPARED AND APPROVED BY A MARYLAND LICENSED TREE EXPERT OR
12 CERTIFIED ARBORIST.

13 (2) FOR EACH INVASIVE SPECIES SPECIMEN TREE TO BE CUT OR CLEARED, A PHOTO OF THE
14 TREE, DESCRIPTION OF THE SPECIES AND AN AERIAL PHOTOGRAPH IDENTIFYING THE
15 LOCATION OF THE TREE ON THE PROPERTY.

16
17 (G) *REVIEW OF APPLICATION.* THE DEPARTMENT SHALL REVIEW THE APPLICATION FOR THE NOTICE
18 TO PROCEED AND APPROVE THE SAME WHERE CLEAR AND CONVINCING EVIDENCE IS SHOWN THAT A
19 SPECIMEN TREE IS DISEASED OR DEAD OR THAT AN INVASIVE SPECIMEN TREE IS PRESENT. THE
20 DEPARTMENT MAY REQUEST ADDITIONAL INFORMATION OR INSPECT THE SPECIMEN TREE IN
21 FURTHERANCE OF ITS REVIEW OF AN APPLICATION. AN APPROVED NOTICE TO PROCEED
22 AUTHORIZES A PROPERTY OWNER TO CUT OR CLEAR AN APPROVED SPECIMEN TREE OR TREES
23 WITHIN ONE YEAR OF ISSUANCE.

24 (H) *EXEMPTIONS.* THE FOLLOWING CONDITIONS OR ACTIVITIES ARE EXEMPT FROM THE PROVISIONS
25 OF THIS SECTION:

26 (1) DEVELOPMENT SUBJECT TO SUBTITLE 12 OF THIS TITLE.

27 (2) THE CUTTING OR CLEARING OF A SPECIMEN TREE THAT, DUE TO HEALTH,
28 DETERIORATION OR DAMAGE NOT CAUSED BY OR AT THE BEHEST OF THE PROPERTY
29 OWNER, PRESENTS AN IMMINENT THREAT TO PERSON OR PROPERTY. THE PROPERTY
30 OWNER SHALL OBTAIN A CERTIFICATE FROM A MARYLAND LICENSED TREE EXPERT OR
31 CERTIFIED ARBORIST INCLUDING THE DIAMETER MEASURED AT 4.5 FEET ABOVE THE

1 GROUND, SPECIES, LOCATION, AND DESCRIBING THE DEGREE OF THE DISEASE,
2 DETERIORATION OR DAMAGE AND THE IMMINENT THREAT PRESENTED BY EACH TREE
3 THAT IS TO BE CUT OR CLEARED.

4 (3) SPECIMEN TREE CUTTING OR CLEARING ASSOCIATED WITH REPAIR, MAINTENANCE OR
5 MODIFICATION OF PUBLIC INFRASTRUCTURE AND UTILITIES SUCH AS ROADWAYS,
6 SIDEWALKS, SHARED USE PATHWAYS, STORM DRAINS, WATER, SEWER, AND OTHER
7 SIMILAR PUBLIC IMPROVEMENTS, WHICH ARE OWNED OR MANAGED BY A GOVERNMENT
8 ENTITY OR HOMEOWNERS ASSOCIATION THAT HAS A FOREST STEWARDSHIP PLAN
9 DRAFTED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES.

10 (4) SPECIMEN TREE CUTTING OR CLEARING IN PUBLIC UTILITY RIGHTS-OF-WAY, OR LAND
11 FOR ELECTRIC GENERATING STATIONS LICENSED PURSUANT TO TITLE 7, SUBTITLE 2 OF
12 THE PUBLIC UTILITY COMPANIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND,
13 IF:

14 (I) REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY HAVE BEEN
15 ISSUED IN ACCORDANCE WITH THE NATURAL RESOURCES ARTICLE, SECTION 5-
16 1603(F), ANNOTATED CODE OF MARYLAND; AND

17 (II) CUTTING OR CLEARING OF SPECIMEN TREES IS CONDUCTED TO MINIMIZE THE LOSS
18 OF SPECIMEN TREES.

19 (5) SPECIMEN TREE CUTTING OR CLEARING ON A RESIDENTIAL LOT LESS THAN ONE ACRE IN
20 SIZE, UNLESS PROTECTED BY A FOREST CONSERVATION EASEMENT.

21 (6) SPECIMEN TREE CUTTING OR CLEARING ASSOCIATED WITH PARKLAND OR OPEN SPACE
22 OWNED BY THE COUNTY PARKLAND AND COUNTY OPEN SPACE OR A HOMEOWNERS
23 ASSOCIATION, WHERE A TREE HAS BEEN DEEMED HAZARDOUS BY A CERTIFIED
24 ARBORIST OR A PUBLIC AGENCY ROADSIDE TREE CARE EXPERT.

25 (7) SPECIMEN TREE CUTTING OR CLEARING ASSOCIATED WITH INVASIVE SPECIES
26 MANAGEMENT AND/OR FOREST MANAGEMENT ON PARKLAND OR OPEN SPACE OWNED
27 BY THE COUNTY ~~PARKLAND AND OPEN SPACE~~ OR A HOMEOWNERS ASSOCIATION
28 VERIFIED BY A CERTIFIED ARBORIST OR A PUBLIC AGENCY ROADSIDE TREE CARE
29 EXPERT.

30 (8) SPECIMEN TREE CUTTING OR CLEARING WITHIN A PUBLIC STREET RIGHT-OF-WAY.

1 (9) SPECIMEN TREE CUTTING OR CLEARING IN ASSOCIATION WITH AGRICULTURAL
2 ACTIVITY.

3 (i) *COMPLIANCE*. THE DEPARTMENT MAY ISSUE A NOTICE OF VIOLATION, STOP-WORK ORDER, OR
4 CIVIL CITATION TO ANY PERSON THAT CAUSES OR ALLOWS A VIOLATION OF THIS SECTION.

5 (j) *NONCOMPLIANCE PENALTIES*. THE COUNTY SHALL ASSESS A NONCOMPLIANCE PENALTY FOR
6 EACH VIOLATION OF THIS SECTION, TO INCLUDE A REPLANTING REQUIREMENT FOR EACH SPECIMEN
7 TREE CUT OR CLEARED, AND THE COUNTY SHALL NOT ACCEPT AN APPLICATION FOR THE
8 RESIDENTIAL SUBDIVISION OF THE PROPERTY FOR FIVE YEARS.

9 (k) *CIVIL PENALTY*. IN ADDITION TO AND CONCURRENT WITH ALL OTHER REMEDIES, THE
10 DEPARTMENT MAY ENFORCE THE PROVISIONS OF THIS SECTION WITH CIVIL PENALTIES PURSUANT
11 TO THE PROVISIONS OF TITLE 24, "CIVIL PENALTIES," OF THE HOWARD COUNTY CODE. A
12 VIOLATION SHALL BE A CLASS A OFFENSE. EACH SPECIMEN TREE CUT OR CLEARED IN VIOLATION
13 OF THIS SECTION IS A SEPARATE VIOLATION.

14
15 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

16 **Subtitle 12. Forest Conservation.**

17
18 **Section 16.1210. Financial security for [[reforestation and afforestation]] REFORESTATION,**
19 **AFFORESTATION, AND RETENTION.**

20 (a) *Financial Security Required*. A person required to provide [[afforestation or reforestation]]
21 AFFORESTATION, REFORESTATION, OR RETENTION under this subtitle shall furnish financial
22 security in the form of a bond, an irrevocable letter of credit, or other security approved by the
23 County. This shall be provided prior to plat recordation if the [[afforestation or reforestation]]
24 AFFORESTATION, REFORESTATION, OR RETENTION is required for approval of a subdivision; prior
25 to site development plan approval if the [[afforestation or reforestation]] AFFORESTATION,
26 REFORESTATION, OR RETENTION is required for site development plan approval; and prior to
27 grading permit issuance if the [[afforestation or reforestation]] AFFORESTATION, REFORESTATION,
28 OR RETENTION is required for issuance of a grading permit. The security shall:

- 29 (1) Assure that the afforestation, reforestation, RETENTION, and the associated forest
30 conservation agreement are implemented in accordance with the approved forest
31 conservation plan;

1 (2) Be in an amount equal to the estimated cost, as approved by the County, of [[reforestation
2 and afforestation]] AFFORESTATION, REFORESTATION, OR RETENTION; and

3 (3) Be in a form and of a content approved by the County.

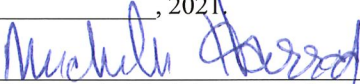
4 (b) *Release of Financial Security.* If, after three growing seasons following the [[afforestation or
5 reforestation]] AFFORESTATION, REFORESTATION, OR RETENTION or as provided in the forest
6 conservation agreement, the plantings OR RETENTION associated with the [[afforestation or
7 reforestation]] AFFORESTATION, REFORESTATION, OR RETENTION meet or exceed the standards of
8 the manual, the amount of the bond, letter of credit, or other security shall be returned or
9 released.

10 (c) *Default and Lien.* If, after three growing seasons or as provided in the forest conservation
11 agreement, the plantings OR RETENTION do not meet the aforesaid standards, the County shall
12 have the right to draw on the security according to its terms and use the sums withdrawn for the
13 costs incurred by the County in achieving the [[afforestation or reforestation]] AFFORESTATION,
14 REFORESTATION, OR RETENTION standards required by the plan and manual. Any costs incurred
15 by the County in excess of the security amount shall be charged against the developer and, unless
16 they are paid or appealed to the Board of Appeals within 30 days after billing by the County,
17 shall become a final lien against the property being developed and shall in every respect be
18 treated as County real estate taxes.

19
20 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
21 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2021.



Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council