

Introduced 10-4-2021  
Public Hearing 10-18-2021  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No # 16

Bill No. 79 -2021

Introduced by Liz Walsh

AN ACT providing for enhanced enforcement measures and penalties for violations of the Forest Conservation Act of Howard County; and generally relating to forest conservation in the County.

Introduced and read first time October 4, 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 Oct 18, 2021.

By order Michelle Harrod  
Michelle R. Harrod, Administrator

This Bill was read the third time on \_\_\_\_\_, 2021 and Passed \_\_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Michelle R. 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 R. Harrod, Administrator

Approved 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 11-1-2021 Michelle Harrod  
Expired 12-13-2021 Michelle Harrod

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 16.1212. Forest Conservation Fund.*

7 *Subsection (c) Noncompliance Penalties.*

8 *Section 16.1213. Enforcement; penalties.*

9  
10 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

11 **Subtitle 12. Forest Conservation.**

12  
13  
14 **Section 16.1212. Forest Conservation Fund.**

15 *Noncompliance Penalties.* The noncompliance penalty is a fine per square foot  
16 of [[forest cut, cleared or graded]] VEGETATION DISTURBED AND PER INCH  
17 CIRCUMFERENCE OF TREE MEASURED AT 4.5 FEET ABOVE THE GROUND DISTURBED which  
18 [[may]] SHALL be assessed against violators of this subtitle as specified in section  
19 16.1211 of this subtitle. The amount of the noncompliance penalty is set by resolution  
20 of the County Council, and in no event shall it be less than the minimum set by state  
21 law.

22  
23 **Section 16.1213. Enforcement; penalties.**

24 The provisions of this subtitle may be enforced with any or all of the following measures:

25 (a) *Revocation of exemption:* The Department may revoke an exemption for properties  
26 that are in violation of the conditions of exemption set forth in section 16.1202(b) of this  
27 subtitle and may require compliance with the retention, reforestation and afforestation  
28 requirements of this subtitle. Prior to revocation, the Department shall notify the violator  
29 in writing and provide an opportunity for a response.

30 (b) *Revocation of approved forest conservation plan:* The Department may revoke an  
31 approved forest conservation plan for cause, including any of the following conditions:

1 (1) Noncompliance with this subtitle or with conditions of an approved forest  
2 conservation plan; or

3 (2) Obtaining approval of the plan through fraud, misrepresentation, a false or  
4 misleading statement, or omission of a relevant or material fact.

5 Prior to revocation, the Department shall notify the violator in writing and provide an  
6 opportunity for a response.

7 (c) *Stop-work order*: The County may issue a stop-work order against any violator of this  
8 subtitle, the Manual, an order, an approved forest conservation plan, the associated forest  
9 conservation agreement and long-term deed of forest conservation easement, or a  
10 declaration of intent.

11 (d) *Injunction*: The County may seek an injunction requiring a violator to cease the  
12 violation and take corrective action to restore or reforest an area.

13 (e) *Noncompliance penalties*: The County [[may]] SHALL assess a noncompliance  
14 penalty as defined in section 16.1212 of this subtitle, against a violator of this subtitle, the  
15 Manual, an order, an approved forest conservation plan, an associated forest conservation  
16 agreement, a long-term deed of forest conservation easement or a declaration of intent.

17 (F) *SUSPENSION OF PLANS PROCESSING*. FOR ANY WILLFUL OR REPEATED VIOLATION OF  
18 THIS SUBTITLE, THE DEPARTMENT SHALL REVOKE ANY APPLICABLE APPROVED FOREST  
19 CONSERVATION PLANS AND SUSPEND ONGOING PROCESSING OF ANY OTHER PLANS  
20 SUBMITTED BY OR ON BEHALF OF THE VIOLATOR OTHER THAN A REVISED FOREST  
21 CONSERVATION PLAN OR PLANS FOR THE PROPERTIES IN VIOLATION. THE DEPARTMENT  
22 SHALL PROVIDE PUBLIC NOTICE OF THE CIRCUMSTANCES OF SUCH SUSPENSION ON THE  
23 COUNTY WEBSITE AND DIRECTLY TO THE DEPARTMENT OF INSPECTIONS, LICENSES AND  
24 PERMITS; THE ADMINISTRATIVE ASSISTANT TO THE ZONING BOARD; THE COUNTY  
25 COUNCIL; AND THE COUNTY EXECUTIVE, WITHIN FIVE DAYS OF REVOCATION. UPON THE  
26 DEPARTMENT'S APPROVAL OF AND THE VIOLATOR'S COMPLIANCE WITH A REVISED,  
27 CORRECTIVE FOREST CONSERVATION PLAN OR PLANS, INCLUDING RESTORATION AND ON-  
28 SITE REFORESTATION EXCEEDING IN SUBSTANTIAL PART OTHERWISE APPLICABLE  
29 REQUIREMENTS, THE SUSPENSION MAY BE LIFTED.

30 (G) *REVOCATION OF ANY ON-SITE EXCEPTIONS*: FOR ANY WILLFUL OR REPEATED VIOLATION  
31 OF THIS SUBTITLE, THE DEPARTMENT SHALL DEEM VOID, WAIVED AND DENIED ANY

1 PREVIOUSLY GRANTED OR PENDING APPLICATION FOR A WAIVER, NECESSARY  
2 DISTURBANCE, VARIANCE, ALTERNATIVE COMPLIANCE, OFF-SITE COMPLIANCE OR ANY  
3 OTHER EXCEPTION FROM THE ON-SITE REQUIREMENTS OF THE FOREST CONSERVATION ACT  
4 FOR ANY PROPERTY IN VIOLATION.

5 ~~[(f)]~~ (H) *Civil Penalties.* In addition to and concurrent with all other remedies, the  
6 Department of Planning and Zoning may enforce the provisions of this subtitle or an  
7 approved forest conservation plan with civil penalties pursuant to the provisions of Title  
8 24, "Civil penalties," of the Howard County Code. A violation shall be a class A offense.  
9 Each day a violation continues is a separate violation.

10

11

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

**Office of the County Auditor  
Auditor's Analysis**

**Council Bill No. 79-2021**

Introduced: October 4, 2021

Auditor: Michael A. Martin

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Fiscal Impact:

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 the increase at this point.

The legislation also modifies text so that the Department of Recreation and Parks (DRP) “shall” collect fines associated with noncompliance. The text currently states that DRP “may” collect such penalties. According to the Director, out of a combined total of 22 recorded residential violations in FY 2019 and FY 2020, 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 amending Howard County Code, Section 16.1212 and Section 16.1213 to:

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

Other Comments:

According to the Director:

- DRP 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.
- 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**

<b>DRP Noncompliance Records</b>	<b>FY 2019</b>	<b>FY 2020</b>
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.**

**Sayers, Margery**

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**From:** Baker, Kevin  
**Sent:** Monday, November 1, 2021 2:55 PM  
**To:** Sayers, Margery  
**Subject:** FW:

For Related Documents.

**From:** Nancy Klein <kleindog@gmail.com>  
**Sent:** Friday, October 29, 2021 4:13 PM  
**To:** Walsh, Elizabeth <ewalsh@howardcountymd.gov>  
**Subject:**

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Thank you for introducing CB 79 to enhance enforcement measures and penalties of Forest Conservation Act violations. As a Howard County and Ellicott City resident and a Howard County Master Watershed Steward candidate currently working on my capstone project, I'm well aware of how critical mature trees are in capturing carbon, providing canopy to slow the flow of rain, providing shade, and providing critical habitat to birds, native insects, and caterpillars.

I often participate in tree plantings, but young trees in no way can compensate for the loss of mature, healthy trees. Thank you for bringing this critical bill forward and for championing it. I truly commend you on your efforts, and will be doing what I can to help its success.

Best regards,  
Nancy Klein  
4629 Roundhill Road  
Ellicott City, MD 21043

Sent from [Mail](#) for Windows



CB79-2021

**Sayers, Margery**

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**From:** Susan Garber <buzysusan23@yahoo.com>  
**Sent:** Monday, October 25, 2021 7:19 PM  
**To:** CouncilMail  
**Subject:** In support of CB78 & CB79-2021  
**Attachments:** HCCA-Testimony\_CB78-79-2021-Forest\_Conservation.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members,

Please see the attached testimony on behalf of the Howard County Citizens Association and the Savage Community Association in strong support of CB 78 and CB 79.

Susan Garber



# HCCA

**Howard County Citizens Association**

*Since 1961... The Voice of the People of Howard County*

## **Testimony in support of CB78 and CB79-2021**

October 18, 2021

Susan Garber, North Laurel/Savage testifying

The Howard County Citizens Association, HCCA, and the Savage Community Association wish to congratulate and thank Councilwoman Liz Walsh for her tireless, continuous efforts to bring about positive outcomes through further strengthening of our Forest Conservation regulations. **Bill numbers may change..... but our commitment to testifying in support of her proposed actions remains unchanged.....** because like her, we embrace the critical importance of our natural environment.

We won't waste our breath or your time repeating our testimony from CB-56 and CB 57-2021. You can watch it on tape. But we do ask that you use the time we've just saved you to hold thoughtful discussions at work sessions and to at least match **our** time researching the fine points of the legislation with an open mind. Please take the time to get all of your questions answered so that you can better see the wisdom in taking the steps proposed. Then take the time to re-examine your loyalties: are they to your constituents or your backers?

We can only hope that all council members will see the Forest AND the (Specimen) Trees. Demonstrate through your support of these bills that this entire governing body genuinely cares about the protection of our environment --and hence our lives, as well as that of our children and grandchildren.

Please begin now, even before the new General Plan comes before you, to prioritize asking 'How much forest cover and open space do we need for a quality and healthful existence, free from the ravages of climate change?' rather than 'How many additional housing units do we think we need?'

If Stu Kohn, president of HCCA was delivering this testimony he would undoubtedly include a relevant thought-provoking quote from a notable and wise historical or political figure. Tonight I want to leave you thinking about a quote from a famous **builder**. If you haven't had children or grandchildren in your life in the last 2 decades you may not be familiar with him. I'm referring to '*Bob the Builder*'. (Not Bob Villa) Day after day, thru 20 TV seasons (185 episodes) Bob and his stop motion animated **pals** worked **together to solve problems** and to **get things done with a positive attitude**. So to any who may throw up roadblocks or readily make excuses for failing to legislate and achieve the highest level of forest retention and conservation in Howard County, I offer the signature words of Bob the Builder: "Can we do it? Yes we can?"

Vote YES on CB 78 and 79.



**HOWARD COUNTY COUNCIL  
AFFIDAVIT OF AUTHORIZATION  
TO TESTIFY ON BEHALF OF AN ORGANIZATION**

I, Susan Garber, have been duly authorized by  
*(name of individual)*

the Howard County Citizens Association, HCCA to deliver testimony to the  
*(name of nonprofit organization or government board, commission, or task force)*

County Council regarding CB79-2021 to express the organization's  
*(bill or resolution number)*

support for / opposition to / request to amend this legislation.  
*(Please circle one.)*

Printed Name: Susan Garber

Signature: \_\_\_\_\_

Date: October 18, 2021

Organization: the Howard County Citizens Association, HCCA

Organization Address: P.O. Box 89 Ellicott City, MD

P.O. Box 89 Ellicott City, MD

Number of Members: 500

Name of Chair/President: Stu Kohn

*This form can be submitted electronically via email to  
[councilmail@howardcountymd.gov](mailto:councilmail@howardcountymd.gov) no later than 2 hours prior to the start of the  
Public Hearing.*



**HOWARD COUNTY COUNCIL  
AFFIDAVIT OF AUTHORIZATION  
TO TESTIFY ON BEHALF OF AN ORGANIZATION**

I, Susan Garber, have been duly authorized by  
*(name of individual)*

the Savage Community Association to deliver testimony to the  
*(name of nonprofit organization or government board, commission, or task force)*

County Council regarding CB79-2021 to express the organization's  
*(bill or resolution number)*

support for / opposition to / request to amend this legislation.  
*(Please circle one.)*

Printed Name: Susan Garber

Signature: \_\_\_\_\_

Date: 10/18/2021

Organization: Savage Community Association

Organization Address: P.O. Box 222 Savage 20763

P.O. Box 222 Savage 20763

Number of Members: 550

Name of Chair/President: Tori Diersen

*This form can be submitted electronically via email to [councilmail@howardcountymd.gov](mailto:councilmail@howardcountymd.gov) no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.*

October 18, 2021

**Re: OPPOSITION TO CB79 – Enhanced Penalties for Forest Conservation Violations**

Dear Counsel Chair Walsh and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 79, which would create enhanced penalties for violations of the county Forest Conservation Act. The Forest Conservation Act of Howard County was repealed and reenacted in December 2019 with an effective date of February 5, 2020. A revised Forest Conservation Manual was approved by Resolution in February 2021. Since these Acts and Manuals were only recently passed, it is an unreasonable burden on builders and developers to now consider additional changes to the Forest Conservation Act. Both the County and the industry has only begun to implement these new rules and there isn't a track record that indicates that changes are necessary at this time.

This legislation would require that the Department of Inspections automatically revoke processing of Forest Conservation Plans and suspend the processing of new plans for violators of the Forest Conservation Act for all properties on which a violation occurred. This bill represents a significant change to the forest conservation act that is still new and not yet fully implemented as stated above. Additionally, the act has no timeline for when a revised forest conservation plan must be issued by the department, allowing projects to be potentially suspended in perpetuity.

For these reasons, MBIA respectfully requests the Council vote against Council Bill 57-2021. Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA's position further, please do not hesitate to contact me at [iambruso@marylandbuilders.org](mailto:iambruso@marylandbuilders.org) or (202) 815-4445.

Best regards,

Isaac Ambruso, Director of Legislative and Regulatory Affairs

Cc: Counsel Chair Elizabeth Walsh  
Vice-Chair Opel Jones  
Councilmember Deb Jung  
County Executive Calvin Ball  
Councilman David Yungmann