

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2025 Legislative Session

Legislative Day No. 5

### Bill No. 27 -2025

Introduced by: Liz Walsh

**SHORT TITLE:** Open Meetings – Waiver and Variance Requests.

**AN ACT** amending the Howard County Code to require that the evaluation of Protection of Wetlands, Streams, & Steep Slopes waivers and Forest Conservation variances be subject to the provisions of the Maryland Open Meetings Act; and generally relating to waivers and variances.

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Introduced and read first time \_\_\_\_\_, 2025. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Michelle 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 \_\_\_\_\_, 2025.

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

This Bill was read the third time on \_\_\_\_\_, 2025 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

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

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_\_ day of \_\_\_\_\_, 2025 at \_\_\_ a.m./p.m.

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

Approved by the County Executive \_\_\_\_\_, 2025

\_\_\_\_\_  
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 Howard  
2 County Code is amended as follows:

3 By amending:

4 Title 16- "Planning, zoning and subdivision and land development regulations"

5 Subtitle 1 – "Subdivision and land development regulations"

6 Section 16.116 – "Protection of wetlands, streams, and steep  
7 slopes"

8 Subsection (d) – "Waivers"

9  
10 And

11  
12 Title 16- "Planning, zoning and subdivisions and land development regulations"

13 Subtitle 12 – "Forest conservation"

14 Section 16.1216 – "Variances"

15  
16 **Title 16 – Planning, Zoning, and Subdivision and Land Development Regulations**

17 **Subtitle 1 – Subdivision and Land Development Regulations**

18  
19 **Section 16.116 – Protection of wetlands, streams, and steep slopes.**

20 (d) *Waivers.*

21 (1) The Director of the Department of Planning and Zoning, the Administrator of the  
22 Office of Community Sustainability and the Director of the Department of Public Works  
23 may grant waivers which allow for alternative compliance to this Section if the applicant  
24 can demonstrate in sufficient detail through evidence that the project meets the criteria set  
25 forth in [section 16.104](#) and the following additional criteria:

26 (i) Any area of disturbance is returned to its natural condition to the greatest  
27 extent possible;

28 (ii) Mitigation is provided to minimize adverse impacts to water quality and fish,  
29 wildlife, and vegetative habitat; and

1 (iii) Grading, removal of vegetative cover and trees, or construction shall only be  
2 the minimum necessary to afford relief and to the extent required to accommodate  
3 the necessary improvements. In these cases, the least damaging designs shall be  
4 required, such as bridges, bottomless culverts or retaining walls, as well as  
5 environmental remediation, including the planting of the areas where grading or  
6 removal of vegetative cover or trees has taken place, utilizing best practices for  
7 ecological restoration and water quality enhancement projects.

8 (2) To determine if the waiver is warranted, the Departments may request an alternatives  
9 analysis, that may include different plan concepts and that clearly demonstrates that no  
10 other feasible alternative exists and that minimal impacts will occur as a result of granting  
11 the modification.

12 (3) THE DIRECTORS AND ADMINISTRATOR SHALL MEET TO CONSIDER WAIVER PETITIONS  
13 UNDER THIS SECTION. THE MEETING SHALL BE OPEN TO THE PUBLIC AND COMPLY WITH THE  
14 REQUIREMENTS OF THE OPEN MEETINGS ACT (TITLE 3 OF THE GENERAL PROVISIONS  
15 ARTICLE OF THE ANNOTATED CODE OF MARYLAND). AGENDAS SHALL BE MADE  
16 AVAILABLE AT LEAST TEN DAYS PRIOR TO THE MEETING IN AN ELECTRONIC MEDIUM  
17 READILY AVAILABLE TO THE PUBLIC. MINUTES OF MEETINGS SHALL BE MADE AVAILABLE,  
18 AS SOON AS PRACTICABLE, IN THE SAME MANNER AS REQUIRED UNDER SUBSECTION (C)(5)  
19 OF THIS SECTION APPLICABLE TO NECESSARY DISTURBANCE EXCEPTIONS.

20 ~~[[3]]~~ (4) Waivers under this subsection shall be reported by the Department of Planning  
21 and Zoning in the same manner as required under subsection (c)(5) applicable to  
22 necessary disturbance exceptions.

23 ~~[[4]]~~ (5) The Department of Public Works shall recuse itself from consideration of any  
24 capital projects seeking waivers.

25  
26 **Title 16 – Planning, Zoning, and Subdivision and Land Development Regulations**

27 **Subtitle 12 – Forest Conservation**

28 **Sec. 16.1216. - Variances.**

29 (a) The Department may grant waivers to the requirements of this subtitle in accordance  
30 with the procedures of subsection [16.104\(b\)](#), subsection [16.104\(c\)](#), and  
31 subsection [16.104\(d\)](#) of the subdivision regulations.

1 (b) A variance to the provisions of this subtitle shall be considered and approved or  
2 denied in writing by the Directors of the Department of Planning and Zoning, the  
3 Administrator of the Office of Community Sustainability, and the Director of the  
4 Department of Recreation and Parks.

5 (C) THE DIRECTORS AND ADMINISTRATOR SHALL MEET TO CONSIDER VARIANCE PETITIONS  
6 UNDER THIS SECTION. THE MEETING SHALL BE OPEN TO THE PUBLIC AND COMPLY WITH THE  
7 REQUIREMENTS OF THE OPEN MEETINGS ACT (TITLE 3 OF THE GENERAL PROVISIONS  
8 ARTICLE OF THE ANNOTATED CODE OF MARYLAND). AGENDAS SHALL BE MADE  
9 AVAILABLE AT LEAST TEN DAYS PRIOR TO THE MEETING IN AN ELECTRONIC MEDIUM  
10 READILY AVAILABLE TO THE PUBLIC. MINUTES OF MEETINGS SHALL BE MADE AVAILABLE  
11 AS SOON AS PRACTICABLE IN IN THE SAME MANNER AS REQUIRED UNDER SECTION 16.116  
12 (C)(5) APPLICABLE TO NECESSARY DISTURBANCE EXCEPTIONS.

13 ~~[(c)]~~ (D) Consideration of a variance requested under this section shall include a  
14 determination as to whether an applicant has demonstrated to the satisfaction of each  
15 Department that enforcement of this subtitle would result in unwarranted hardship.  
16 Increased cost or inconvenience of meeting the requirements of ~~[[the]]~~ these regulations  
17 does not constitute an unwarranted hardship to the applicant. The applicant shall:

- 18 (1) Describe the special conditions peculiar to the property which would cause the  
19 unwarranted hardship;
- 20 (2) Describe how enforcement of these regulations would deprive the landowner  
21 of rights commonly enjoyed by others in similar areas;
- 22 (3) Verify that the granting of a variance will not adversely affect water quality;
- 23 (4) Verify that the granting of a variance will not confer on the applicant a special  
24 privilege that would be denied to other applicants;
- 25 (5) Verify that the variance request is not based on conditions or circumstances  
26 which are the result of actions by the applicant;
- 27 (6) Verify that the condition did not arise from a condition relating to land or  
28 building use, either permitted or nonconforming, on a neighboring property; and
- 29 (7) Provide any other information appropriate to support the request.

30 ~~[[d)]~~ (E) Any native specimen tree removed shall be replaced on-site by at least two  
31 native trees with a DBH (diameter at breast height) of at least three inches.

1           [[(e)]] (F) Notice of a request for a complete variance of the Forest Conservation Program  
2           shall be given by the Department of Planning and Zoning to the Maryland Department of  
3           Natural Resources within 15 days of receipt of a request for a variance. Notice of a  
4           request for a variance to individual program requirements, temporary deferral or phasing  
5           of obligations with the Forest Conservation Program requirements shall be given by the  
6           Department of Planning and Zoning to the Maryland Department of Natural Resources  
7           after a decision on the variance request is rendered by the Department.

8  
9           ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***  
10          ***this Act shall become effective 61 days after its enactment.***