

# PROPOSED

AMENDED  
March 15, 2021  
April 19, 2021

## COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2021, Legislative Day No. 4

Bill No. 20-21

Introduced by Ms. Rodvien

By the County Council, February 16, 2021

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Introduced and first read on February 16, 2021  
Public Hearing set for and held on March 15, 2021  
Public Hearing on AMENDED bill set for and held on April 5, 2021  
Bill AMENDED on April 19, 2021  
Public Hearing on SECOND AMENDED bill set for May 3, 2021  
Bill Expires May 22, 2021

By Order: Laura Corby, Administrative Officer

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### A BILL ENTITLED

1 AN ORDINANCE concerning: Floodplain Management, Erosion and Sediment Control,  
2 and Stormwater Management – Subdivision and Development – Forest Conservation

3  
4 FOR the purpose of adding a definition of “priority forest”; amending the definition of  
5 “standard grading plan”; ~~requiring approval to clear a specific number of trees or area~~  
6 ~~of forest if the clearing includes certain sensitive areas, plants, shrubs, or trees, or~~  
7 ~~habitats~~; requiring replanting or payment of a fee-in-lieu of replanting when an  
8 approved ~~standard grading plan~~ grading permit allows for the clearing ~~of certain trees~~  
9 in a priority forest; establishing civil fines for certain clearing violations; adding  
10 penalties for violations of erosion and sediment control and stormwater management  
11 provisions; adding penalties for clearing violations that occur during development; and  
12 generally relating to floodplain management, erosion and sediment control, and  
13 stormwater management and subdivision and development.

14  
15 BY repealing: § 16-5-106  
16 Anne Arundel County Code (2005, as amended)

17  
18 BY renumbering: § §§ 16-1-101(73) through (98), respectively, to be 16-1-101(74) through  
19 (99), respectively; and 16-5-105(d) to be 16-5-105(e)  
20 Anne Arundel County Code (2005, as amended)

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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[[Brackets]] indicate matter repealed from existing law.  
Captions and taglines in **bold** in this bill are catchwords and are not law.  
Asterisks \*\*\* indicate existing Code provisions in a list or chart that remain unchanged.  
Underlining indicates matter added to bill by amendment.  
~~Strikeover~~ indicates matter removed from bill by amendment.

1 BY adding: §§ ~~16-3-202(d)~~ 16-1-101(73); 16-3-201(c); 16-5-105(d); and 16-5-106  
2 Anne Arundel County Code (2005, as amended)

3  
4 BY repealing and reenacting, with amendments: §§ 16-1-101(86); ~~16-3-201(a) and (b)(5);~~  
5 ~~16-3-202(a)(2);~~ and 17-6-309  
6 Anne Arundel County Code (2005, as amended)

7  
8 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
9 That § 16-5-106 of the Anne Arundel County Code (2005, as amended) be repealed.

10  
11 SECTION 2. *And be it further enacted,* That ~~§ 16-5-105(d)~~ §§ 16-1-101(73) through  
12 (98); and 16-5-105(d), respectively of the Anne Arundel County Code (2005, as amended)  
13 is hereby renumbered to be ~~§ 16-5-105(e)~~ §§ 16-1-101(74) through (99); and 16-5-105(d),  
14 respectively.

15  
16 SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County  
17 Code (2005, as amended) read as follows:

18  
19 **ARTICLE 16. FLOODPLAIN MANAGEMENT, EROSION AND SEDIMENT**  
20 **CONTROL, AND STORMWATER MANAGEMENT**

21  
22 **TITLE 1. DEFINITIONS AND GENERAL PROVISIONS**

23  
24 **16-1-101. Definitions.**

25  
26 In this article, the following words have the meanings indicated.

27  
28 \*\*\*

29  
30 (73) “PRIORITY FOREST” MEANS A FOREST WITH TREES, SHRUBS, AND PLANTS  
31 LOCATED OUTSIDE OF THE CRITICAL AREA, AND:

32  
33 (I) IN SENSITIVE AREAS, INCLUDES THE 100-YEAR FLOODPLAIN, INTERMITTENT  
34 AND PERENNIAL STREAMS AND THEIR BUFFERS, STEEP SLOPES, NON-TIDAL WETLANDS,  
35 AND ALL ASSOCIATED BUFFERS, OR CRITICAL HABITAT AREAS, AS DEFINED IN § 5-1601 OF  
36 THE NATURAL RESOURCES ARTICLE OF THE STATE CODE; OR

37  
38 (II) INCLUDES HABITATS OR POTENTIAL HABITATS FOR FOREST INTERIOR  
39 DWELLING BIRDS AND OTHER WILDLIFE SPECIES THAT CONSIST OF A MINIMUM OF 75  
40 ACRES OF CONTIGUOUS FOREST WITH 10 OR MORE ACRES OF CONTIGUOUS FOREST  
41 LOCATED MORE THAN 300 FEET FROM THE NEAREST FOREST EDGE, OR A MINIMUM OF 75  
42 ACRES OF CONTIGUOUS FORESTS ALONG A PERENNIAL STREAM WITH AN AVERAGE  
43 WIDTH OF AT LEAST 300 FEET.

44  
45 \*\*\*

46  
47 [(86)] (87) “Standard grading plan” means a plan that may be used in lieu of a  
48 grading permit only for certain minor grading and earth disturbance associated with minor  
49 commercial and residential construction OR CLEARING, GRADING, OR DISTURBANCE OF  
50 LESS THAN 5,000 SQUARE FEET, and, if necessary, may include soil and erosion control  
51 plans.

TITLE 3. EROSION AND SEDIMENT CONTROL

~~16-3-201. Approval required; exceptions.~~

(a) ~~Approval required.~~ Except as provided in subsection (b), a person may not:

~~———— (1) grade without a grading permit issued by the Department;~~

~~———— (2) clear or grade in the critical area buffer, expanded buffer, or buffer modification area described in § 18-13-104 of this Code without a standard grading plan, a grading permit, or an approved vegetation management plan, buffer management plan or forest management plan; [or]~~

~~———— (3) do logging without a grading permit issued by the Department; OR~~

~~———— (4) CLEAR MORE THAN THREE TREES OR 1,000 SQUARE FEET, WHICHEVER IS LESS, WITH A CANOPY COVERAGE OF 2,500 SQUARE FEET OR MORE OF FOREST WITHOUT A STANDARD GRADING PLAN OR A GRADING PERMIT ISSUED BY THE DEPARTMENT, OR AN APPROVED FOREST MANAGEMENT PLAN, IF THE CLEARING INCLUDES:~~

~~———— (I) TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS, INCLUDING THE 100 YEAR FLOODPLAIN, INTERMITTENT AND PERENNIAL STREAMS AND THEIR BUFFERS, STEEP SLOPES, NON TIDAL WETLANDS, AND ALL ASSOCIATED BUFFERS; AND CRITICAL HABITAT AREAS, AS DEFINED IN § 5-1601 OF THE NATURAL RESOURCES ARTICLE OF THE STATE CODE; OR~~

~~———— (II) TREES, SHRUBS, OR PLANTS DETERMINED TO BE RARE, THREATENED, OR ENDANGERED UNDER THE FEDERAL ENDANGERED SPECIES ACT OF 1973 SET FORTH IN 16 U.S.C. §§ 1531–1544 AND IN 50 CFR PART 17; THE MARYLAND NONGAME AND ENDANGERED SPECIES CONSERVATION ACT SET FORTH IN §§ 10-2A-01 ET SEQ. OF THE NATURAL RESOURCES ARTICLE, OF THE STATE CODE; AND COMAR, TITLE 08;~~

~~———— (III) TREES THAT ARE CHAMPION TREES, PART OF A HISTORIC SITE, OR ASSOCIATED WITH A HISTORIC STRUCTURE;~~

~~———— (IV) A TREE THAT HAS A DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND OF 30 INCHES OR MORE OR THAT IS 75% OR MORE OF THE DIAMETER OF THE CURRENT STATE CHAMPION TREE OF THAT SPECIES; OR~~

~~———— (V) (II) HABITATS OR POTENTIAL HABITATS FOR FOREST INTERIOR DWELLING BIRDS AND OTHER WILDLIFE SPECIES THAT CONSIST OF A MINIMUM OF 75 ACRES OF CONTIGUOUS FOREST WITH 10 OR MORE ACRES OF CONTIGUOUS FOREST LOCATED MORE THAN 300 FEET FROM THE NEAREST FOREST EDGE, OR A MINIMUM OF 75 ACRES OF CONTIGUOUS RIPARIAN FORESTS ALONG A PERENNIAL STREAM WITH AN AVERAGE WIDTH OF AT LEAST 300 FEET.~~

~~———— (b) Exceptions.~~ Approval is not required for clearing or grading associated with:

~~———— \*\*\*~~

~~———— (5) disturbing less than 5,000 square feet of land or unless prohibited by subsection (a)(2) OR (A)(4) of this section or other applicable State or federal law.~~

1 ~~16-3-202. Standard grading plan.~~

2  
3 ~~—(a) Generally. A standard grading plan may be used in lieu of a grading permit if:~~

4  
5 ~~\_\_\_\_\_ \*\*\*~~

6  
7 ~~\_\_\_\_\_ (2) the applicant certifies that construction OR CLEARING will meet the conditions~~  
8 ~~and limitations established on the standard grading plan and will be carried out in~~  
9 ~~compliance with this title; and~~

10  
11 ~~\_\_\_\_\_ \*\*\*~~

12  
13 ~~—(D) Requirements for forest clearing. UNLESS ANOTHER PROVISION OF LAW~~  
14 ~~PROVIDES FOR A STRICTER REQUIREMENT, FOR A STANDARD GRADING PLAN APPROVING~~  
15 ~~CLEARING UNDER § 16-3-201(A)(4), THE APPLICANT SHALL BE REQUIRED TO REPLANT~~  
16 ~~ONSITE OR OFFSITE OR PAY A FEE IN LIEU OF PLANTING AS SET FORTH IN § 17-11-101 OF~~  
17 ~~THIS CODE AT A RATIO OF 1 TO 1.~~

18  
19 **16-3-201. Approval required; exceptions; priority forests.**

20  
21 (C) Priority forests. UNLESS ANOTHER PROVISION OF LAW PROVIDES FOR A STRICTER  
22 REQUIREMENT, FOR A GRADING PERMIT APPROVING CLEARING IN A PRIORITY FOREST,  
23 THE APPLICANT SHALL BE REQUIRED TO REPLANT ONSITE OR OFFSITE OR PAY A FEE-IN-  
24 LIEU OF PLANTING AS SET FORTH IN § 17-11-101 OF THIS CODE AT A RATIO OF ONE TO ONE.

25  
26 **TITLE 5. VIOLATIONS, ENFORCEMENT, AND PENALTIES**

27  
28 **16-5-105. Civil fines.**

29  
30 (D) Forest clearing violations. IT IS A CLASS A CIVIL OFFENSE TO CLEAR IN A PRIORITY  
31 FOREST IN VIOLATION OF § 16-3-201(A)(4) § 16-3-201. THE CIVIL FINE SHALL BE \$4.50 PER  
32 SQUARE FOOT OF TREES OR AREA CLEARED, NOT TO EXCEED \$10,000 PER VIOLATION. THE  
33 FACTORS SET FORTH IN SUBSECTION (B)(4) SHALL BE CONSIDERED IN DETERMINING THE  
34 AMOUNT OF ANY FINE ASSESSED UNDER THIS SUBSECTION.

35  
36 **[[16-5-106.]] 16-5-106. Violation requirements.**

37  
38 [[A person who clears in violation of the law shall plant at a ratio of three times the  
39 area cleared. Any fee-in-lieu of planting shall be as set forth in § 17-11-101 for clearing in  
40 violation of either the forest conservation or the critical area provisions of Article 17, and  
41 the fee shall be paid on demand.]]

42  
43 IN ADDITION TO ANY OTHER PENALTIES SET FORTH IN THIS ARTICLE, A PERSON WHO  
44 VIOLATES THE PROVISIONS OF TITLE 3 OR 4 OF THIS ARTICLE SHALL, AT A MINIMUM:

45  
46 (1) REPLANT AT THREE TIMES THE AREA CLEARED, GRADED, OR DISTURBED WITH  
47 TREES AND VEGETATIVE COVER APPROVED BY THE DEPARTMENT; AND

48  
49 (2) FOR ANY REPLANTING THAT CANNOT BE ACHIEVED IN ACCORDANCE WITH  
50 THIS CODE, PAY A FEE-IN-LIEU OF PLANTING AS SET FORTH IN § 17-11-101; AND

1 ~~———— (3) IN ADDITION TO ANY CIVIL FINES OR THE FEE-IN-LIEU REQUIRED UNDER~~  
2 ~~PARAGRAPH (2), PAY THE FEE FOR CLEARING IN VIOLATION OF THE CRITICAL AREA LAW~~  
3 ~~AS SET FORTH IN § 17-11-101 FOR THE ENTIRE AREA CLEARED, GRADED, OR DISTURBED.~~

4  
5 **ARTICLE 17. SUBDIVISION AND DEVELOPMENT**

6  
7 **TITLE 6. GENERAL DEVELOPMENT PROVISIONS**

8  
9 **17-6-309. Violations.**

10  
11 A person who clears in violation of this subtitle shall, at a minimum:

12  
13 (1) replant at ~~[[two times]]~~ THREE TIMES the area cleared with trees and vegetative  
14 cover approved by the Office of Planning and Zoning; ~~[[or]]~~

15  
16 (2) FOR ANY REPLANTING THAT CANNOT BE ACHIEVED IN ACCORDANCE WITH  
17 THIS CODE, pay a ~~[[fee]]~~ FEE-IN-LIEU OF PLANTING into the Forest Conservation Fund as  
18 ~~[[required by]]~~ SET FORTH IN § 17-11-101; AND

19  
20 (3) IN ADDITION TO ANY CIVIL FINES OR THE FEE-IN-LIEU REQUIRED UNDER  
21 PARAGRAPH (2), PAY THE FEE FOR CLEARING IN VIOLATION OF THE FOREST  
22 CONSERVATION LAW AS SET FORTH IN § 17-11-101 FOR THE ENTIRE AREA CLEARED.

23  
24 SECTION 4. *And be it further enacted,* That this Ordinance shall take effect 45 days  
25 from the date it becomes law.