

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2024 Legislative Session

Bill No. CB-077-2024

Chapter No. _____

Proposed and Presented by The Chair (by request – Planning Board)

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

AN ACT concerning

Woodland and Wildlife Habitat Conservation Ordinance

For the purpose of revising the validity and grandfathering and notification requirements in the existing subtitle.

BY repealing and reenacting with amendments:

SUBTITLE 25. TREES AND VEGETATION.

Section 25-119

The Prince George's County Code

(2023 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 25-119 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 25. TREES AND VEGETATION.

DIVISION 2. WOODLAND AND WILDLIFE HABITAT CONSERVATION ORDINANCE.

Sec. 25-119. Applicability.

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(c) Plan Review and Conformance

(1) The approval authority for TCPs is the same as that of the associated DRD application. If there is no associated DRD application, the Planning Director is the approving authority.

(A) If a TCP1 has been approved for a site, all subsequent TCP2 plans must be in conformance with the TCP1.

[(i) For TCP minor revisions:]

[(aa)] (2) If the TCP2 is to be approved by the Planning Board, conformance with the TCP1, if applicable, shall be determined by the Planning Board.

[(bb)] (3) If a TCP2 is to be approved by the Planning Director, it shall be in conformance with this Division, and in conformance with the TCP1, if applicable, [as follows:]

(4) For TCP minor and major revisions:

(A) The following criteria constitutes a minor revision:

(i) The proposed TCP continues to meet all required elements of this Division.

(ii) The TCP does not affect lots or parcels already sold to builders or homeowners.

(iii) The proposed change:

(aa) Is a revision as a result from governmental requirements as further defined in the Technical Manual; OR

[(i)] (bb) Does not reduce the total woodland conservation on the site by [Any proposed reduction in the total woodland conservation on the site shall not exceed] the greater of 5,000 square feet or 5 percent of the area of on-site woodland conservation originally approved; and

[(ii)] (cc) Does not change the location or type of woodland conservation by [The proposed change in the location or type of woodland conservation shall not exceed] the greater of 10,000 square feet or 10% of the area of woodland conservation originally approved; and

[(iii)] (dd) Does not adversely affect [S] specimen, champion or historic trees specifically identified for preservation, [will not be adversely affected; or]

[(iv)] The proposed change or reduction results from governmental requirements.

(v) The proposed TCP continues to meet all required elements of this Division.

(vi) The TCP does not affect lots already sold to builders or homeowners.]

[(ii)](B) For TCP major revisions:

[(aa)] (i) If a criterion in [(ii.)] (A) above cannot be met, the TCP[2] shall be duly advertised and the approval authority becomes the Planning Board and shall comply with the current regulations of this Division.

[(B)] (C) If no TCP1 exists and one is not required, each TCP2 shall [be in conformance with this Division] comply with the current regulations of this Division.

[(2) For those TCP applications that propose clearing of woodland, written notice shall be mailed to the abutting and adjacent property owners at least 20 days before the TCP is approved. The notice shall provide such property owners an opportunity to provide written comment. If the application proposes clearing 75% or more of woodland and the net tract area is five (5) acres or more, the abutting and adjacent property owners will be advised of the process for providing written and verbal comments.]

(5) Written notice shall be mailed for TCP applications in accordance with the following:

(A) For TCP applications that are companion to a DRD application that requires notification, a notification shall state that a TCP will be reviewed concurrently with the DRD application. The applicable mailing, signage, and opportunity to provide written or verbal comment shall follow the processes and procedures required by the associated DRD application. If the DRD does not require notification, the

notification process will be in accordance with Subsection 25-119(c)(5)(B).

(B) For those stand-alone TCP applications that are not associated with a DRD application and are proposing clearing, written notice shall be mailed to the parties listed in Subsection 27-3407(b)(1) of the Zoning Ordinance for Detailed Site Plans at least 20 days before the TCP is approved. If the application proposes clearing of 50% or more of woodland and the net tract area is four (4) acres or more, the parties notified shall be advised of the process for providing written and verbal comments.

[(3)] (6) Plan validity requirements are as follows:

(A) TCP1s [and TCP2s] expire if the associated plan expires [unless a permit has been issued].

(B) An application for a TCP2 approved on or after July 1, 2024, shall be valid for 5 years from the date of approval unless a grading permit has been issued.

[(B)] (C) Once a grading permit has been issued, TCP2s do not expire, and the requirements run with the land in perpetuity until an approved revision to the TCP2 is acquired.

[(C) Requests to the Planning Board for extensions of previously approved DRD applications must include the associated TCP for that plan's validity period to also be extended.]

(D) Plans that are grandfathered are subject to the expiration provisions [of this division] stated in Subsections 25-119(g) and (h).

[(E) An application for a TCP2 approved after July 1, 2024 shall be valid for 5 years from the date of approval.]

[(4)] (7) TCPs shall be prepared in conformance with the Technical Manual.

[(5)] (8) TCPs must include the legal boundaries of all lots or parcels in their entirety unless they are government or linear in nature. For linear projects, refer to Section 25-119(f) for the requirements. For government projects, refer to Section 25-119(e) [or] for the requirements. TCPs shall include the same property as the associated application, unless a previous TCP approval covered a larger area or a larger area is warranted by supporting development on an adjacent lot, parcel or combination of lots or parcels.

[(6)] (9) TCP2s shall not be approved separately for sites that are either currently under review for a DRD application or that require the submittal of a DRD application prior to development.

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(g) Grandfathering of applications and plans

(1) In this subsection and (h), the following term has the meaning indicated. Implementation or implemented shall be defined as: the issuance of a grading permit for the site or any portion of the site, completion of a pre-construction meeting with the applicable permitting agency, and installation of tree protective devices verified by a qualified professional.

[(1)] (2) TCP applications that are accepted for review on or before June 30, 2024 shall be grandfathered and shall be subject to the regulations in place at the time of acceptance. Plans that are grandfathered are subject to the expiration provisions of this Division.

- (3) A project with an approved TCP that was approved on or before June 30, 2024 and has been implemented on the property or a portion thereof as confirmed by the county permitting authority shall be grandfathered and subject to the regulation in place at the time of its acceptance.
- [(2) TCPs that were approved prior to September 12, 2010 and do not have an approved grading permit that has been implemented with a pre-construction meeting and installation of approved tree protection devices as confirmed by the county are considered expired on the effective date of this ordinance. A new TCP shall be reviewed and approved using the provisions of this Division.
- (3) TCPs that were approved on or after September 12, 2010 and before July 1, 2024 shall be grandfathered and shall be subject to the regulations in place at the time of approval. These plans will expire on July 1, 2028 if these plans do not have an approved grading permit that has been implemented with a pre-construction meeting and installation of approved tree protection devices as confirmed by the county. A new TCP shall be reviewed and approved using the provisions of this Division.]
- (4) Grandfathered TCPs [that are approved prior to July 1, 2024] shall comply with the [provisions] current regulations of this Division when being revised as a major revision in accordance with [Sub 25-119(c)(1)(A)] Sub 25-119(c)(4)(B). When being revised as a minor revision in accordance with Subsection 25-119(c)(4)(A), grandfathered TCPs may comply with the regulations in place at the time of acceptance of the previously approved TCP.
- (5) Applications for woodland conservation banks that were submitted before December 31, 2020 that provide for conservation of all or part of an existing forest shall be grandfathered.
- (6) Standard and Numbered Letters of Exemption issued prior to July 1, 2024 shall remain valid and shall expire on the date stated on the exemption letter. Projects with expired Standard and Numbered Letters of Exemption shall comply with the current regulations of this Division.

(h) Expiration of grandfathered plans

- (1) A TCP that was approved prior to September 1, 2010, and has not been implemented on all or a portion of the site as confirmed by the county permitting authority expires on July 1, 2024. Any new TCP shall be reviewed and approved subject to the provisions of this Division effective July 1, 2024.
- (2) A TCP that was approved on or after September 1, 2010, and before July 1, 2024, shall be grandfathered and shall be subject to the regulations in place at the time of approval. These plans will expire on July 1, 2029 if not implemented on the property or a portion thereof as confirmed by the county permitting authority. A new TCP shall be reviewed and approved subject to the provisions of this Division.

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SECTION [#] 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs,

subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION [#] 3. BE IT FURTHER ENACTED that this Act shall take effect on forty-five (45) calendar days after it becomes law/the effective date of CB-##-2024.

Adopted this ____ day of _____, 2024.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jolene Ivey
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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