

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2011 Legislative Session

Bill No. CB-33-2011

Chapter No. 41

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

Introduced by Council Member Turner

Co-Sponsors _____

Date of Introduction October 18, 2011

BILL

1 AN ACT concerning

2 Trees and Vegetation – Tree Canopy Ordinance

3 For the purpose of clarifying applicability requirements, amending regulations, providing certain
4 exemptions, and codifying waiver procedures from requirements of the Tree Canopy Ordinance.

5 BY repealing and reenacting with amendments:

6 **SUBTITLE 25. TREES AND VEGETATION.**

7 Sections 25-127, 25-128, and 25-129,

8 The Prince George's County Code

9 (2007 Edition, 2010 Supplement).

10 BY adding:

11 Section 25-130,

12 The Prince George's County Code

13 (2007 Edition, 2010 Supplement).

14 **SECTION 1.** BE IT ENACTED by the County Council of Prince George's County,
15 Maryland, that Sections 25-127, 25-128, and 25-129 of the Prince George's County Code be and
16 the same are hereby repealed and reenacted with the following amendments:

17 **SUBTITLE 25. TREES AND VEGETATION.**

18 **DIVISION 3. TREE CANOPY ORDINANCE.**

19 **Sec. 25-127. Applicability.**

20 (a) General

21 [(1) This Division applies to:

1 (A) All development applications that require a tree conservation plan or a Letter
 2 of Exemption; and

3 (B) All activities of a unit of County or municipal government.

4 (2) Applications shall contain a landscape plan, or if a landscape plan is not required,
 5 a Type 2 Tree Conservation Plan may be used to demonstrate conformance with this Division.

6 (3) All plans and associated information shall be prepared in conformance with the
 7 Technical Manual.

8 (4) All submittals required by this Division shall be prepared by a qualified
 9 professional and shall contain a stamp or certification from the qualified professional who
 10 prepared the plans and the plans shall contain an original signature and date applied by the
 11 preparer. If there are three documented cases of plan submittals that do not meet the minimum
 12 threshold requirements for submittal in conformance with this Division and the Technical
 13 Manual within a time frame of one year, the Planning Director may recommend to the Maryland
 14 Department of Natural Resources that a qualified professional's ability to submit plans under this
 15 Division be suspended.]

16 (1) Building and grading permits that propose 1,500 square feet or greater of gross
 17 floor area or disturbance shall be in compliance with this Division, except as provided in Section
 18 25-127(b).

19 (2) A Standard or Numbered Letter of Exemption from Division 2 of this Subtitle does
 20 not exempt the property from this Division.

21 (3) Any exemption from a provision of the Prince George's County Landscape Manual,
 22 per Section 1.1 Applicability, shall not be construed as an exemption from this Division.

23 (b) Exemptions

24 (1) The following are exempt from this Division:

25 (A) Public buildings and uses as set forth in Section 27-122 of the Zoning
 26 Ordinance.

27 (B) Any permit pertaining to an existing single-family detached home.

28 (C) Any permit pertaining to an existing townhouse, one family semi-detached,
 29 two-family or three-family dwelling or other similar unit type, except multifamily.

30 (D) Properties located in the R-O-S, O-S and R-A Zones.

31 (E) Properties located in the Chesapeake Bay Critical Area Overlay Zones.

1 (F) The environmental setting of a Historic Site.

2 (G) Temporary uses listed in Section 27-261 of the Zoning Ordinance.

3 (H) Permits for minor improvements of a limited scope and nature such as, but not
4 limited to, façade restoration, signage, canopies, mechanical equipment, and construction for
5 general maintenance, or similar alterations as described in Section 27-255, or as determined by
6 the Planning Director.

7 (I) Properties subject to tree canopy coverage requirements contained in an approved
8 Transit District Overlay (T-D-O) Zone or a Development District Overlay (D-D-O) Zone are
9 exempt from the tree canopy coverage requirements contained in this Division.

10 **Sec. 25-128. Tree Canopy Coverage Requirements.**

11 (a) Tree canopy requirements shall be met [on the subject site] unless a [variance] waiver
12 has been [approved by the Planning Board.] granted pursuant to Section 25-130.

13 (b) All activities that [require a grading permit] are subject to this Division shall provide
14 the tree canopy percentages listed in Table 1. [even if the application meets the criteria for a
15 Standard Letter of Exemption from Division 2 of this Subtitle.] Tree canopy coverage
16 requirements are based on the gross tract area.

17 * * * * * * * * *

18 (c) The requirements of this Division shall be demonstrated on an appropriate plan prepared
19 in conformance with Part D of the Environmental Technical Manual or prepared in conformance
20 with Section 2, Plan Preparation of the Prince George’s County Landscape Manual.

21 **Sec. 25-129. Credit and Security.**

22 (a) Existing trees to be preserved, proposed on-site woodland conservation, [and]
23 trees planted throughout the site, and street trees located within the right-of-way along the
24 property frontage may be counted toward meeting this requirement. Calculations of tree canopy
25 coverage credits shall be completed using the worksheet provided in the Technical Manual.
26 Credit toward meeting this requirement shall be calculated using the amount of canopy coverage
27 a planted tree provides in ten years, and/or by calculating the amount of canopy provided by
28 existing trees to be preserved, regardless of whether or not the existing trees are used to meet
29 other requirements of this Subtitle.

30 (b) Specimen, champion, and historic trees may be credited by counting twice the square
31 footage of the critical root zone area if they are not within a designated woodland conservation

1 area and if the site has been designed to ensure long-term survival. If the specimen, champion or
 2 historic trees are within a woodland conservation area, additional credit shall not be calculated.
 3 [Trees planted to meet other provisions of County Code may also be counted toward meeting this
 4 requirement.] A tree management plan in accordance with the Environmental Technical Manual
 5 may be required for each specimen, champion, or historic tree preserved for credit under this
 6 paragraph.

7 (c) Existing trees that are not bonded through other requirements of the County Code may
 8 be required to be bonded by the approving authority of the development application prior to
 9 permit issuance. If a bond is required, the [A] bond amount shall be equal to the replacement cost
 10 of the trees used to meet the tree canopy requirement and shall be provided prior to permit
 11 issuance. The replacement cost for landscaping trees shall be based on the average cost of the
 12 plant material as provided by the applicant, with a 2.5 multiplier to cover installation costs. The
 13 replacement cost for trees used to meet this requirement that are above landscape sizes shall be
 14 calculated by the applicant using the removal cost plus the replacement value. The replacement
 15 value shall be calculated using the latest edition of the “Guide for Plant Appraisal” prepared by
 16 the Council of Tree and Landscape Appraisers.

17 (d) If [the] an existing tree proposed to be preserved does not survive construction,
 18 mitigation shall be provided as stated in Section 25-120(c)(6)(D). [A tree management plan shall
 19 be prepared for each specimen, champion, or historic tree preserved.]

20 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
 21 Maryland, that Section 25-130 of the Prince George's County Code be and the same is hereby
 22 added:

23 **Sec. 25-130. Waivers.**

24 (a) An applicant may request a full or partial waiver from the requirements of this
 25 Division. To approve a full or partial waiver, the approving authority shall find that the
 26 application meets the following standards:

27 (1) Topography, site limitations, or other site conditions are such that the full
 28 compliance to the requirements are impossible or impractical to comply with the provision of
 29 tree canopy coverage on the site in accordance with this Division;

30 (2) Provision of the full extent of the tree canopy coverage requirement cannot reasonably
 31 be expected because of a lack of rooting space and or soil volume to accommodate healthy tree

1 growth.

2 (3) The planting of additional trees will result in the need to remove existing pavement
3 being used to meet other County Code requirements;

4 (4) Existing or proposed parking and loading spaces are not in excess of the minimum
5 necessary according to Subtitle 27, Part 11, Parking and Loading Standards; and

6 (5) The waiver is the minimum necessary based on the criteria above.

7 (b) A waiver request shall be accompanied by sufficient written, graphic, and/or
8 photographic explanation and a statement of justification to enable an appropriate evaluation and
9 decision regarding the request.

10 (c) A waiver request shall be approved by the Planning Board, Zoning Hearing Examiner,
11 and/or the District Council for applications heard by them. The appeal process for waiver
12 requests is the same as the appeal process as articulated in the Prince George's County Code for
13 the associated application types.

14 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
15 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
16 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
17 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
18 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
19 Act, since the same would have been enacted without the incorporation in this Act of any such
20 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

21 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect on February 1,
22 2012.

Adopted this 15th day of November, 2011.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ingrid M. Turner
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____

BY: _____
Rushern L. Baker, III
County Executive