

Frequently Asked Questions about Montgomery County's Forest Conservation Law

Q: Is the County's Forest Conservation Law the same as the State of Maryland's Forest Conservation Act?

A: The County's Forest Conservation Law is based on the State of Maryland's Forest Conservation Act (enabling legislation) and must be at least as strict as this state law.

Q: Which projects are subject to the County's Forest Conservation Law?

A: Owners of properties greater than 40,000 square feet who are required to submit a development application, a conditional use (special exception) application, or obtain a sediment control permit; any project that would threaten any champion tree; highway construction projects; and public utilities; must comply with the County's Forest Conservation Law. Depending on the type of project and/or amount of forest proposed to be removed, the applicant may qualify for an exemption from submitting a Forest Conservation Plan.

Q: Is all forest in Montgomery County regulated through the County's Forest Conservation Law?

A: No. The Forest Conservation Law only applies to properties that meet the above requirements for size and application type. Additionally, State or federal projects that propose removal of forest are not subject to the County's Forest Conservation Law but may be subject to the State of Maryland's Forest Conservation Act. The Montgomery County Planning Department also does not implement the County's Forest Conservation Law in certain municipalities, including Rockville, Gaithersburg, Poolesville, Laytonsville, Washington Grove, and Barnesville.

Q: If a person subject to the County's Forest Conservation Law (developer, property owner, or County representative) proposes a project that requires approval of a Forest Conservation Plan, how much forest are they required to protect or replant?

A: Every project that is required to submit a Forest Conservation Plan for review will have a different forest mitigation requirement, depending on the total tract area, area of existing forest cover, area of forest to be cleared, and land use category.

For example, a development project on a 16-acre property with a land use category of medium-density residential and 8 acres of existing forest that proposes to clear all 8 acres would have a forest mitigation requirement of 9 acres. If the same project were proposed on property with a land use category of agricultural and resource areas, the project would have a forest mitigation requirement of 16 acres.

Q: How much forest has been cleared by projects subject to the County's Forest Conservation Law?

A: Since July 1, 1993, 4,417 acres of forest have been cleared by projects subject to the County's Forest Conservation Law.

Q: How much forest has been permanently protected by projects subject to the County's Forest Conservation Law?

A: Since July 1, 1993, 12,767 acres of forest have been permanently protected by forest conservation easements by projects subject to the County's Forest Conservation Law and through the forest mitigation bank program. This does not include forest planted to meet forest mitigation requirements; planted forest is also required to be protected by a forest conservation easement.

Q: How much forest has been planted by projects subject to the County's Forest Conservation Law?

A: Since July 1, 1993, 2,807 acres of forest have been planted by projects subject to the County's Forest Conservation Law, by fee-in-lieu, and through the forest mitigation bank program. Planted forest is also required to be protected by a forest conservation easement.

Q: What is the current fee-in-lieu rate paid by projects to meet forest mitigation requirements of the County's Forest Conservation Law?

A: \$1.25 per square foot (forest mitigation is required in terms of acres or square feet).

Q: When can someone pay a fee-in-lieu to meet their forest mitigation requirements?

A: A fee-in-lieu payment can only be made with the approval of Montgomery County Planning Department staff if the following are not feasible:

- On-site afforestation or reforestation
- Off-site afforestation or reforestation
- Enhancement of existing forest
- Purchase of credits from a forest mitigation bank in the County (unless the mitigation requirement is less than 0.5 acre)

Q: What is the Forest Conservation Fund (collected fee-in-lieu payments) used for?

A: The Forest Conservation Fund is used to plant forest (and maintain planted forest) through the programs of Reforest Montgomery (<https://montgomeryplanning.org/reforest>). Projects subject to the County's Forest Conservation Law have contributed funds equal to 42 acres of reforestation through in-lieu fee contributions to date. The Montgomery County Planning Department has reforested 59 acres with the Forest Conservation Fund to date.

Q: Does the County's Forest Conservation Law regulate removal of street trees or trees that are not part of a forest?

A: No.