



Forest Conservation Fees: In-lieu Fees and Administrative Civil Penalty Rate



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SUMMARY

- Staff recommends a \$0.05 increase to the forest conservation in-lieu fee amount to a new rate of \$1.20 per square foot.
- Staff recommends a \$0.35 increase to the maximum administrative civil penalty allowable for forest conservation violations to a new rate of \$11.05 per square foot.

BACKGROUND

Staff is required by Montgomery County Council Resolution 15-1271 to assess the forest conservation in-lieu fee amount and the maximum administrative civil penalty every odd numbered year. The County Resolution indicates that this increase must be made by May 1 of each odd numbered year and applicable on July 1. The in-lieu fee amount is currently \$1.15 per square foot and the maximum civil administrative penalty is currently \$10.70 per square foot. These rates became effective on July 1, 2015.

Montgomery County Council Resolution 15-1271 (Attachment 1) requires the Planning Board to adjust the forest conservation in-lieu amount and administrative civil penalty based on the Consumer Price Index for the Baltimore-Washington Area. The County resolution indicates that increases shall only be based on the two most recent calendar years.

Analysis

The United States Bureau of Labor Statistics data indicates that the Consumer Price Index increased between January 2015 and January 2017 for the Baltimore-Washington area (Attachment 2). The consumer price index in January 2015 was 153.376 and 158.086 in January 2017. The January 2017 index is a 3.07% increase from January 2015. Therefore:

- Based on Consumer Price Index the increase in the forest conservation in-lieu amount is \$0.0353 ($\$1.15 \times 3.07\% = \0.0353) per square foot. The new in-lieu fee rate would be \$1.1853 per square foot ($\$1.15 + \0.0353).
- Based on the Consumer Price Index the increase in the maximum forest conservation administrative civil penalty is \$0.3285 ($\$10.70 \times 3.07\% = \0.3285) per square foot. The new maximum forest conservation penalty rate would be \$11.0285 per square foot ($\$10.70 + \$0.3285 = \$11.0285$).

The Council Resolution requires all adjustments to be rounded to the nearest multiple of 5 cents. Common rounding practices will round the in-lieu amount from \$1.1853 to \$1.20 per square foot and the maximum administrative civil penalty rate will be rounded from \$11.0285 to \$11.05 per square foot.

RECOMMENDATIONS

Based on the direction provided in County Council Resolution 15-1271 staff recommends the Planning Board set the in-lieu rate and the maximum administrative civil penalty to the following rates:

- In-lieu amount = \$1.20 per square foot
- Maximum administrative civil penalty = \$11.05 per square foot.

These new rates will become effective July 1, 2017. County Council Resolution 15-1271 does not include a grandfathering clause therefore, applicants desiring to meet their forest conservation requirements via an in-lieu fee payment after July 1, 2017 must pay at a rate equal to \$1.20 per square foot regardless of when the plan was approved. Similarly, violations to the Chapter 22A of the County code can be assessed civil administrative penalties based on the higher rate after July 1, 2017.

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Attachment 1

Resolution No.: 15-1271
Introduced: December 6, 2005
Adopted: December 13, 2005

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Transportation and Environment Committee

SUBJECT: Resolution to set certain penalties and fees under the County forest conservation law

Background

1. The County forest conservation law, in County Code §22A-16(d)(1), authorizes the County Council to set by law or resolution the maximum amount of the administrative civil penalty authorized by §22A-16(d).
2. The County forest conservation law, in §22A-12(g)(1), authorizes the County Council to set by law or resolution the [maximum] amount of the fee that the Planning Board may charge in lieu of afforestation or reforestation under §22A-12(g).
3. At a worksession held on December 1, 2005, the Council's Transportation and Environment Committee recommended that the maximum penalty and fee be set in amounts that would effectively deter violations of the forest conservation law, particularly willful violations.

Action

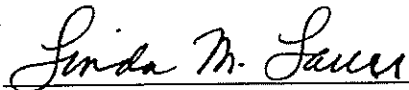
The County Council for Montgomery County, Maryland approves the following resolution:

1. The maximum amount of the administrative civil penalty authorized by County Code §22A-16(d) is \$9/square foot for any [willful] violation of Chapter 22A or regulations implementing that Chapter[, and \$3/square foot for all other violations of that Chapter or regulations].
2. The [maximum] amount of the fee that the Planning Board may charge in lieu of afforestation or reforestation authorized by County Code §22A-12(g) is \$.90/square foot of the area of required planting.
3. Without further action by the County Council, the Planning Board must adjust each dollar amount in this resolution, effective July 1 of each odd-numbered year, by the percentage amount of the annual average increase or decrease (if any) in the Consumer Price Index for all urban consumers in the Washington-Baltimore

metropolitan area, or any successor index, for the two most recent calendar years. The Board must calculate this adjustment to the nearest multiple of 5 cents. The Board must notify the public of the amount of this adjustment not later than May 1 of each odd numbered year.

4. This resolution takes effect when Expedited Bill 27-05 takes effect.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

Attachment 2

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Consumer Price Index Historical Tables for Washington-Baltimore, DC-MD-VA-WV

CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U)

ALL ITEMS (November 1996=100)	Washington-Baltimore, D.C.-Md.-Va.-W.Va.											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Consumer Price Index												
2007	129.956		131.945		132.982		134.442		134.678		135.151	
2008	136.293		138.090		139.649		142.065		142.036		138.547	
2009	137.598		138.620		139.311		140.810		140.945		140.718	
2010	141.124		141.741		142.025		141.966		142.738		142.915	
2011	144.327		146.044		147.554		147.747		147.658		147.565	
2012	148.163		150.074		150.155		149.838		151.732		150.646	
2013	150.845		152.188		151.908		152.657		153.532		153.160	
2014	153.700		154.600		155.198		155.220		155.522		154.926	
2015	153.376		154.984		155.880		155.546		156.278		155.820	
2016	155.519		156.493		157.770		157.674		157.572		157.706	
2017	158.086											
Percent change from 12 months ago												
2007	2.9		4.1		3.2		2.9		3.4		4.5	
2008	4.9		4.7		5.0		5.7		5.5		2.5	
2009	1.0		0.4		-0.2		-0.9		-0.8		1.6	
2010	2.6		2.3		1.9		0.8		1.3		1.6	
2011	2.3		3.0		3.9		4.1		3.4		3.3	
2012	2.7		2.8		1.8		1.4		2.8		2.1	
2013	1.8		1.4		1.2		1.9		1.2		1.7	
2014	1.9		1.6		2.2		1.7		1.3		1.2	
2015	-0.2		0.2		0.4		0.2		0.5		0.6	
2016	1.4		1.0		1.2		1.4		0.8		1.2	
2017	1.7											

CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS (CPI-W)

ALL ITEMS (November 1996=100)	Washington-Baltimore, D.C.-Md.-Va.-W.Va.											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Consumer Price Index												
2007	128.978		131.234		132.330		133.766		134.277		134.844	
2008	135.826		137.544		139.332		141.622		141.679		137.700	
2009	136.359		137.539		138.510		140.434		140.701		140.608	
2010	141.155		141.782		142.064		141.926		142.755		142.938	
2011	144.556		146.572		148.638		148.294		148.352		148.038	
2012	148.489		150.619		150.848		150.523		152.663		151.395	
2013	151.407		152.849		152.309		153.211		154.123		153.471	
2014	154.090		154.918		155.560		155.654		155.931		154.988	
2015	153.167		154.846		155.545		155.567		156.234		155.609	
2016	155.251		156.216		157.510		157.264		157.353		157.407	
2017	158.176											
Percent change from 12 months ago												

ALL ITEMS (November 1996=100)	Washington-Baltimore, D.C.-Md.-Va.-W.Va.											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2007	2.3		3.8		3.2		3.1		3.4		4.8	
2008	5.3		4.8		5.3		5.9		5.5		2.1	
2009	0.4		0.0		-0.6		-0.8		-0.7		2.1	
2010	3.5		3.1		2.6		1.1		1.5		1.7	
2011	2.4		3.4		4.6		4.5		3.9		3.6	
2012	2.7		2.8		1.5		1.5		2.9		2.3	
2013	2.0		1.5		1.0		1.8		1.0		1.4	
2014	1.8		1.4		2.1		1.6		1.2		1.0	
2015	-0.6		0.0		0.0		-0.1		0.2		0.4	
2016	1.4		0.9		1.3		1.1		0.7		1.2	
2017	1.9											

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