

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAY 09 2023

MCPB No. 23-049

Forest Conservation In-Lieu Fee and Administrative Civil Penalty Rate

Date of Hearing: April 27, 2023

RESOLUTION

WHEREAS, Section 22A-12(g)(l) of the Montgomery County Forest Conservation Law authorizes the Montgomery County Council ("County Council"), either by law or resolution, to set the amount of the fee the Montgomery County Planning Board ("Planning Board") may charge in-lieu of afforestation or reforestation required under Section 22A-12(g); and

WHEREAS, Section 22A-16(d)(l) of the Montgomery County Forest Conservation Law authorizes the County Council, either by law or resolution, to set the maximum amount of the administrative civil penalty authorized under Section 22A-16(d); and

WHEREAS, County Council Resolution 15-1271, without further action by the County Council, requires the Planning Board on each odd-numbered year to adjust the dollar amounts the Planning Board may charge for: (i) in-lieu afforestation and reforestation under Section 22A-12(g)(l); and (ii) the maximum amount of an administrative civil penalty under Section 22A-16(d)(l), by the percentage amount of the annual average increase or decrease in the Consumer Price Index ("CPI") of all urban consumers in the Washington- Baltimore metropolitan area, or its successor; and

WHEREAS, in January 2018, the U.S. Bureau of Labor Statistics, part of the Department of Labor, discontinued the Washington-Baltimore metropolitan area and separated it into two new Core Based Statistical Areas (CBSA). Montgomery County was placed into the CBSA called Washington-Arlington-Alexandria. Therefore, the determination of the new in-lieu fee amount and the administrative civil penalty is based on the comparison of the CPI for the Washington-Arlington-Alexandria CBSA from January 2021 to January 2023; and

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605 | Fax: 301-495-1320

www.montgomeryplanningboard.org | mcp-chair@nccpc.org

Approved as to

Legal Sufficiency: /s/ Allison Myers

M-NCPPC Legal Department

WHEREAS, following review and analysis of The United States Bureau of Labor Statistics data by the Planning Board staff ("Staff"), Staff issued a memorandum to the Planning Board, dated April 17, 2023, providing its analysis and recommendation for approval of increases to the in-lieu fee and the maximum administrative civil penalty ("Staff Report") consistent with the CPI increase; and

WHEREAS, on April 27, 2023, the Planning Board held a public hearing on the Application and voted to approve the revisions to the (i) in-lieu fee and (ii) maximum administrative civil penalty, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES the following fee changes, pursuant to County Council Resolution 15-1271:

1. Effective July 1, 2023, the fee in-lieu of afforestation or reforestation under Section 22A-12(g)(1) shall be \$1.45 per square foot.
2. Effective July 1, 2023, the maximum administrative civil penalty under Section 22A-16(d)(l) shall be \$13.00 per square foot.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS that:

The changes to the fee in-lieu for afforestation and reforestation under Section 22A-12(g)(l) and the maximum administrative civil penalty under Section 22A-16(d)(l) satisfy all the applicable requirements of law, including County Council Resolution 15-1271.

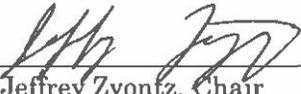
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is MAY 09 2023 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Bartley, seconded by Commissioner Pedoeem, with a vote of 5-0; Chair Zyontz, Vice Chair Piñero, and Commissioners Bartley, Hedrick, and Pedoeem, voting in favor of the motion, at its regular meeting held on Thursday, April 27, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board