

(a) a person required by law to obtain development plan approval, diagrammatic plan approval, project plan approval, preliminary plan of subdivision approval, or site plan approval;

(b) a person required by law to obtain special exception approval or a sediment control permit on a tract of land 40,000 square feet or larger, and who is not otherwise required to obtain an approval under subsection (a);

(c) a person who performs any cutting or clearing, or any other land disturbing activity that would directly threaten the viability of any champion tree, wherever located;

(d) a government entity subject to mandatory referral on a tract of land 40,000 square feet or larger which is not exempt under subsection 22A-5(f);

(e) highway construction not exempt under subsections 22A-5(e) or (p); and

(f) a public utility not exempt under subsections 22A-5(g), (o)(1) and (2), or (p).

Any person who expects to cut, clear, or grade more than 5000 square feet of forest, or any champion tree, and who believes that the cutting, clearing, or grading is exempt under Section 22A-5, 22A-6, 22A-7, or 22A-8, must notify the Planning Director in writing before performing any cutting, clearing, or grading and seek confirmation from the Director that the cutting, clearing, or grading is in fact exempt from Article II. Failing to notify the Director as required by this Section, or performing any cutting, clearing, or grading before the Director confirms that an exemption applies, is a violation of this Chapter.

The Planning Director must notify the Department of Permitting Services if this Chapter would apply to any cutting, clearing, or grading of which the Department would otherwise not be notified.

(1992 L.M.C., ch. 4, § 1; 2001 L.M.C., ch. 19, § 1.)

### **Sec. 22A-5. Exemptions.**

The requirements of Article II do not apply to:

(a) an activity conducted on an existing single lot of any size that is required to construct a dwelling house or accessory structure (such as a pool, tennis court, or shed) intended for the use of the owner, if the activity:

(1) does not require a special exception;

(2) does not result in the cutting, clearing, or grading of:

(A) more than a total of 40,000 square feet of forest;

(B) any forest in a stream buffer,

- (C) any forest on property located in a special protection area which must submit a water quality plan,
  - (D) any specimen or champion tree, or
  - (E) any trees or forest that are subject to a previously approved forest conservation plan or tree save plan; and
- (3) is subject to a declaration of intent filed with the Planning Director stating that the lot will not be the subject of additional regulated activities under this Chapter within 5 years of the cutting, clearing, or grading of forest;

(b) an agricultural activity that is exempt from both platting requirements under Section 50-9 and requirements to obtain a sediment control permit under Section 19-2(c)(2). Agricultural support buildings and related activities are exempt only if built using best management practices;

(c) a tree nursery;

(d)

- (1) a commercial logging and timber harvesting operation, including any harvesting conducted under the forest conservation and management program under Section 8-211 of the Tax-Property Article of the Maryland Code that:
  - (A) is completed before July 1, 1991, or is completed on or after July 1, 1991, and the property on which the cutting or clearing is conducted is not the subject of an application for development within 5 years after the sediment control permit has been issued;
  - (B) has received approval from the County Arborist or designee that the logging or timber harvesting plan is not inconsistent with County forest management objectives and is otherwise appropriate; and
  - (C) has received a sediment control permit from the Department of Permitting Services and posted the required financial security under Chapter 19.
- (2) The Department of Permitting Services must send the Planning Director a copy of all sediment control permits issued for commercial logging and timber harvesting operations.
- (3) The requirements of this subsection apply to commercial logging and timber harvesting operations on agricultural land;

(e) a State or County highway construction activity that is subject to Section 5-103 of the Natural Resources Article of the Maryland Code, or Section 22A-9;

(f) a governmental project reviewed for forest conservation purposes by the State Department of Natural Resources under the Code of Maryland Regulations;

(g) except for the clearing of access roads, routine maintenance of public utility easements and rights-of-way;

(h) utility or other work that is of an emergency nature;

(i) noncoal surface mining regulated under Title 7 of the Natural Resources Article of the Maryland Code;

(j) a sediment control permit approved before July 1, 1991, or if amended after that date at the initiation of the permittee, that does not result in the cutting of more than 5,000 additional square feet of forest;

(k) any lot covered by a preliminary plan of subdivision or site plan that did not receive a sediment control permit before July 1, 1991, and for which the preliminary plan of subdivision or site plan:

- (1) was approved before July 1, 1984, and has less than 40,000 square feet of forest cover; or
- (2) was approved or extended between July 1, 1984 and July 1, 1991, and
- (3) the construction will not result in the cutting, clearing, or grading of:
  - (A) any forest in a stream buffer, or
  - (B) any forest on property located in a special protection area which must submit a water quality plan.

A preliminary plan of subdivision or site plan approved before July 1, 1991, that is revised after that date at the initiative of the applicant and which results in the cutting of more than 5,000 additional square feet of forest is not exempt. Development or redevelopment of a property which requires resubdivision is not exempt. This subsection does not apply to a planned unit development subject to subsection (1);

(l) any planned unit development for which a development plan was approved by the District Council or for which a project plan was approved by the Planning Board before January 1, 1992, and which has received site plan approval before July 1, 1992 for the tract. However, even if site plan approval has not been obtained before July 1, 1992, for the tract, the planned unit development is exempt if it is 75% or more complete on January 1, 1992, as measured by the total acreage subject to the planned unit development that has received site plan approval. A development plan or project plan amendment approved after January 1, 1992, is not exempt if it results in the cutting of more than 5,000 additional square feet of forest;

(m) a real estate transfer to provide a security, leasehold, or other legal or equitable interest in a portion of a lot or parcel, if;

- (1) the transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
- (2) both the grantor and grantee file a declaration of intent;

(n) any minor subdivision under Section 50-35A(a)(2)-(3) involving conversion of an existing recorded outlot created because of inadequate or unavailable sewerage or water service to a lot or joining two or more existing residential lots into one lot, if:

- (1) the only development located on the resulting lot is a single family dwelling unit or an accessory structure (such as a pool, tennis court, or shed); and
- (2) development does not result in the cutting, clearing, or grading of:

- (A) more than a total of 40,000 square feet of forest,
- (B) any forest in a stream buffer,
- (C) any forest on property located in a special protection area which must submit a water quality plan,
- (D) any specimen or champion tree, or
- (E) any tree or forest that is subject to the requirements of a previously approved forest conservation plan or tree save plan;

(o) The cutting or clearing of public utility rights-of-way or land for electric generating stations licensed under Section 54A and 54B or Section 54I of Article 78 of the Maryland Code, if:

- (1) any required certificates of public convenience and necessity have been issued in accordance with Section 5-1604(f) of the Natural Resources Article of the Maryland Code; and
- (2) the cutting or clearing of the forest is conducted so as to minimize the loss of forest.

(p) the construction of a public utility or highway in a utility right-of-way not exempt under subsection (o), or a highway right-of-way not exempt under subsection (e), if:

- (1) the right-of-way existed before July 1, 1992;
- (2) forest clearing will not exceed a total of 40,000 square feet and
- (3) the construction will not result in the cutting, clearing, or grading of:
  - (A) any forest in a stream buffer,
  - (B) any forest on property located in a special protection area which must submit a water quality plan,
  - (C) any specimen or champion tree, or
  - (D) any tree or forest that is subject to a previously approved forest conservation or tree save plan;

(q) a special exception application if:

- (1) the application is for an existing structure and the proposed use will not result in clearing of existing forest or trees;
- (2) the application modifies an existing special exception use which was approved before July 1, 1991, and the revision will not result in the clearing of more than a total of 5000 additional square feet of forest or any specimen or champion tree; or
- (3) the total disturbance area for the proposed special exception use will not exceed 10,000 square feet, and clearing will not exceed a total of 5000 square feet of forest or include any specimen or champion tree;

(r) an equestrian facility located in an agricultural zone that is exempt from platting requirements under Section 50-9, whether or not a sediment control permit is obtained under Section 19-2. Article II does not apply to any equestrian support building or related activity only if the building is built using best management practices. However, Section 22A-6(b) applies if any specimen or champion tree would be cleared. This exemption does not permit any forest or tree that was preserved under a previously-

approved forest conservation plan or tree save plan to be cut, cleared, or graded unless the previously-approved plan is amended to allow that activity. This exemption does not apply if:

- (1) any forest was cleared during an agricultural activity, as defined in subsection (b), during the 5 years before any exemption under this subsection is claimed;
- (2) any forest or tree located in a stream valley buffer would be cleared;
- (3) on-site forest retention does not equal at least 25% of the tract area or all forest existing when the exemption is claimed, whichever is less; or
- (4) on-site forest retention does not equal at least 50% of any net tract area when more than 50% of that tract is existing forest.

A conservation easement is not required for any equestrian facility, whether or not the exemption in this subsection applies. However, another type of long-term protection may be required under Section 22A-12(h)(2) if the facility includes any forest retention area. The Planning Director must monitor any facility that is exempt under this subsection to confirm that the applicant and any successor in interest continue to comply with all conditions of the exemption;

(s)

- (1) an activity occurring on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet; or
- (2) an activity occurring on a tract less than 1 acre that will not result in the clearing of more than a total of 30,000 square feet of existing forest, or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. Forest in any priority area on-site must be preserved; and

(t) a modification to existing developed property if:

- (1) no more than 5000 square feet of forest will be cleared;
- (2) the modification does not affect any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan; and
- (3) the modification does not require approval of a new subdivision plan. (1992 L.M.C., ch. 4, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 14, § 1; 2001 L.M.C., ch. 19, § 1; ; 2002 L.M.C., ch. 16, § 2; 2004 L.M.C., ch. 20, §1.)

### **Sec. 22A-6. Exemptions-Special provisions.**

(a) Special transition provision. An activity or development that is exempted under Section 22A-5, but which requires site plan approval, is subject to the local law applicable to tree conservation in effect before July 1, 1992. However, a violation of the requirements of any tree save plan or similar condition of approval may be enforced using any remedy provided under this Chapter.

(b) Tree save plan provision. An activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing of a specimen or

champion tree, requires the approval of a tree save plan, which may require tree preservation or mitigation for loss of individual trees. The plan requirements must be based on the size and character of the trees to be cleared. If trees to be cleared are part of an existing scenic buffer between public parkland and a proposed development, trees which are smaller than specimen size may be included in the plan. (1992 L.M.C., ch. 4, § 1; 2001 L.M.C., ch. 19, § 1.)

**Sec. 22A-7. Activities or development not exempt under Section 22A-5--Special transition provision.**

(a) An activity or development not exempted under Section 22A-5 and which received preliminary plan of subdivision approval, site plan approval, project plan approval, or development plan approval, including any amendments, between July 1, 1991 and July 1, 1992 is exempt from the requirements of Article II at the time of a subsequent sediment control permit application if:

- (1) final plat approval has been obtained by July 1, 1992; or
- (2) a substantively complete application for final plat approval under Section 50-36 has been filed by July 1, 1992. If all other requirements are met, the Planning Board must consider an application to be substantively complete if the Board determines that:
  - (A) any required approval or permit that has not been obtained from another governmental agency is not available solely because of the inaction by the other governmental agency; and
  - (B) the applicant has used best efforts to obtain the permit or approval.

(b) If final plat approval will not be required under subsection (a) of this Section because the development is on a recorded lot or for other reasons, the development will be subject to the requirements of this Chapter at the time of any subsequent application for a sediment control permit.

(c) If the Planning Board finds that a development approval between July 1, 1991 and July 1, 1992 was consistent with the retention, afforestation, or reforestation standards of this Chapter but is not exempt under this Section, the Board may waive additional submission requirements at the time of any later sediment control permit application. However, the Board must not waive the provisions of Section 22A-12(g) and (h) requiring certain agreements and financial security.

(d) An amendment to a sediment control permit approved between July 1, 1991 and July 1, 1992 is subject to the requirements of Article II if the activity is not otherwise exempt and it will result in the cutting of an additional 5,000 square feet of forest. (1992 L.M.C., ch. 4, § 1; 2001 L.M.C., ch. 19, § 1.)

**Sec. 22A-8. Utility lines.**

- (a) General.