

**SURVEY OF FOREST CONSERVATION LAWS
AND TREE PROTECTION ORDINANCES
OF SELECTED COUNTIES AND
THE DISTRICT OF COLUMBIA
2008-2009**



**Landscape Design Council of the
National Capital Area Garden Clubs**

The Survey was initiated as the President's Project of the Landscape Design Council in 2008. It was written and managed by President Dianne Gregg glassnob@aol.com and Green Chair Susan Tipton stipto7@yahoo.com. It was edited by Paula Knepper, Editor of the Landscape Design Council Newsletter, pknepper@verizon.net.

FORWARD

Reforestation of the earth is second only to cutting fuel emissions in stopping global warming. Trees help prevent erosion and stabilize the soil, absorb carbon dioxide and produce oxygen. Trees improve water quality by slowing and filtering storm water runoff protecting watersheds and aquifers. Tree leaves lower air temperature through evaporation cooling houses and buildings up to 20 degrees. Trees provide shelter and food for insects, birds and other animals, provide wood for building and paper, and beautify the land.

The purpose of this survey was to determine how various local counties and DC were protecting and saving their tree canopy for future generations and for the earth, itself.

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**The Landscape Design Council
of the National Capital area Garden Clubs**

**SURVEY OF THE FOREST CONSERVATION AND TREE
PROTECTION LAWS AND REGULATIONS IN
WASHINGTON DC AND SOME OF THE
SURROUNDING COUNTIES
2008-2009**

I. INTRODUCTION

Purpose and Scope:

Reforestation of the earth is second only to cutting fuel emissions in stopping global warming. Trees help prevent erosion; absorb carbon dioxide; filter storm water runoff; cool houses by shading them; provide shelter and food for insects, birds and other animals; provide wood for building and paper; and beautify the land.

The Landscape Design Council of the National Capital Area Garden Clubs has sponsored a survey of the current laws and regulations concerning forest conservation and tree protection in Washington, DC and some of the surrounding areas. The purpose of this survey was to determine how various local counties and DC were protecting and saving their tree canopy for future generations and for the earth itself.

The following areas in the National Capital Area were surveyed:

- The District of Columbia
- Arlington County, Alexandria County, and Fairfax County in Virginia
- Charles County, Montgomery County, and Prince Georges County in Maryland

These areas include the urban, rural, suburban, old, new, large, and small communities in which members of the Landscape Design Council live. Incorporated municipalities that have strong regulations such as Takoma Park in Montgomery County and Falls Church in Fairfax County were not surveyed. Federal land in the District of Columbia managed by the National Park Service was not included. The data are only from the city government of the District of Columbia and the surrounding county governments.

Methodology

This survey was conducted in 2008. It was inspired by a presentation at a West Montgomery County Citizens' Association meeting by Councilmember Marc Elrich and his Chief of Staff Dale Tibbits. The meeting concerned Mr. Elrich's initiative to better protect Montgomery County's forests. The presentation showed that the tree canopy in Montgomery County was 49% in 1973 and down to 29% in 2008. They pointed out that the loss was due mainly to the development of housing communities and commercial building.

The survey was conducted by Landscape Design Council members interviewing the local government elected officials and those responsible for the implementation of existing laws in those areas. The interviews followed a pre-developed set of questions (see appendix A) concerning forest and tree protection regulations and ordinances, and responses were recorded for each of the respective counties and DC. The same set of questions was asked of the implementing official interviewed in each county so that results could be compared across jurisdictions. Elected officials received a slightly modified set of questions, but again, the set was consistent across jurisdictions. Individual interviews lasted from approximately 1 to 4 hours each.

We greatly appreciate the information and input from the elected officials: Sam Graves, Charles County, MD; Marc Elrich, Montgomery County, MD; Thomas E. Dernoga, Prince Georges County, MD; Jay Fisette, Arlington County, VA; and Redella S. "Del" Pepper, Alexandria County, VA. In addition, we received thorough responses from the implementing officials.

Responses from the implementing officials were then put into comparative charts, which are presented in the next section.

II. COMPARATIVE CHART OF RESPONSES

FOREST CONSERVATION AND TREE PROTECTION –
Chart 1: County Forest Conservation Laws **Page 4**

FOREST CONSERVATION AND TREE PROTECTION – **Page 14**
Chart 2: County Tree Protection Laws

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Chart 1.	District of Columbia	Maryland		
<u>County Forest Conservation Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
1. A. Are there any existing Forest Conservation Laws in your County? If not, is a new law being considered? Please give me a copy of any law, or proposed law, or the link so that I can print a copy.	Yes, The Urban Forest Preservation Act of 2002. **	Yes, Forest Conservation Annotated Code of Maryland, Natural Resources Article Title 5 Subtitle 16 Code of Maryland Regulations, 08-09 May 2003	Yes, and new laws are being considered. The 1992 Forest Conservation Law of Montgomery County can be found at Chapter 22A of the County code. Amendments for the forest conservation law are in Bill 37-07. **	Yes, the Woodland Conservation Ordinance (WCO), and the State Forest Conservation Act found in Title 5. Subtitle 16. **
2. What is the level of forest disturbance necessary to trigger the Conservation Law?	There is no forest land in the DC. The largest property is Rock Creek Park, which is Federal Land not governed by DC	40,000 square feet	40,000 square feet	Development requiring a Woodland Conservation Ordinance grading permit
3. Under what conditions is a developer required to plant replacement trees? (reforestation)	Trees must be replaced when they are cut down. Tree preservation is considered in the permit process but sometimes the permit process approval is negotiated with a different agency and Urban Forestry has no control. Large tree boxes and tree planting is required.	If an area is over 40,000 square feet, a developer prepares a worksheet (from Appendix C^ of the Technical Manual) determining how much of a forest easement is required. If reforestation is required, there is a point system based on the kind and size of trees proposed.	Developers are required to plant replacement forests (not trees) when they remove more forest than the "break even point". People with lots of forest on their property may be allowed to remove forests without any compensation. It depends on the amount of existing forest, the conservation threshold, and the amount of forest to be retained above the conservation threshold.	A developer is required to meet the woodland conservation requirement for the site, which can be accomplished through several methodologies: preservation, reforestation or afforestation either on-site or through a conservation bank off-site. The law includes a disincentive to clearing by requiring one-quarter of an acre for each acre of clearing proposed.
	** in question 1 indicates that web page information is available in the text on page 28.			

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Virginia			<u>County Forest Conservation Law</u>
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	
Yes, Chesapeake Bay Act; Site Plan Requirement; Grading Plan Requirement	Yes, Tree Regulations associated with the Chesapeake Bay Protection Ordinance** and the Trees & Shrub Ordinance. **	Yes, the Fairfax County Tree Conservation Ordinance, January 1, 2009, Chapter 122 of the Public Facilities Manual. **	1. A. Are there any existing Forest Conservation Laws in your County? If not, is a new law being considered? Please give me a copy of any law, or proposed law, or the link so that I can print a copy.
2500 square feet	2500 square feet	2500 square feet	2. What is the level of forest disturbance necessary to trigger the Conservation Law?
A developer must maintain a minimum of 25% canopy cover	1. To meet the Chesapeake Bay (Protection) Ordinance 2. In large commercial projects site plan - County Board has to approve sit plan - Tree replacement formula.	Emphasis on tree preservation not replacement; when the tree canopy is disturbed. The developer must replant to maintain the tree canopy status.	3. Under what conditions is a developer required to plant replacement trees? (reforestation)
** in question 1 indicates that web page information is available in the text on page 28.			

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4. What is the size requirement for replacement trees?	Saplings which, in combination, equal the size of the circumference of the tree(s) removed. Further, each sapling must be 2 inches or greater in diameter. For example, if a tree with an 18 inch circumference were removed, 9 trees of 2-inch diameter could replace it.	The technical manual gives tables of size vs number per acre (more smaller trees are required than large ones.)	Trees planted as part of a reforestation requirement can be 3/4 to 1 inch caliper size, 1 1/2 to 2 inch caliper size or greater than 2 1/2 inch caliper size.	Aforestation or reforestation may be accomplished with saplings, whips or landscape size trees. It depends on location, vulnerability, appearance, sensitivity etc.
5. What maintenance period is required of the developer to assure that newly planted trees survive? (i.e. two years, five years)	one year	A bond of \$4,000 per acre is required for two years		two to five years
6. If a developer is allowed to mitigate offsite (make up for loss of forest), what are the possible ways?	N/A	A developer has to negotiate easements with the private parties (land owners) for multiples of 2, 3, or 4 times the area depending on where the easement is. This currently costs \$3,000 an acre close in and less further out.		Off site woodland conservation mitigation is accomplished through the establishment of off site mitigation banks through either preservation, afforestation or a combination of the two. The mitigation banks are protected through the recordation of conservation easements in the land records.

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2 - 2 1/2" caliper shade trees; 8 - 10 ft high ornamental trees	2 1/2 " diameter usually. The state of Virginia has the "Dillon Rule" that requires local governments to have state authorization for new or revised tree ordinances.	5 ft high, 2 1/2" caliper minimum. More credit goes to larger trees for giving more tree canopy.	4. What is the size requirement for replacement trees?
one year	Commercial sites - one year. Large site plan projects - forever. Residential - after sale to owner - none.	Typically 4-5 year period relating to how and when the bond is released.	5. What maintenance period is required of the developer to assure that newly planted trees survive? (i.e. two years, five years)
	On a large commercial site plan the developer can pay into a fund to plant trees elsewhere. This varies depending on the site.		6. If a developer is allowed to mitigate offsite (make up for loss of forest), what are the possible ways?

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6 A. Can they plant new forest off site with a conservation easement to protect the trees? If so, what is the ratio of original forest loss to off site planting required?	N/A	Yes, but never done	Applicants can meet the requirements by creating new forest off site. For each acre of forest planting required as a result of the forest conservation plan for the subject site, the applicant can either plant one acre of new forest or permanently protect two acres of existing forest.	Off site mitigation provided through afforestation is credited at one acre of mitigation credit for every acre of planting. Off site mitigation provided through preservation is credited at one acre of mitigation credit for every two acres protected.
6 B. Can developers pay to protect existing trees off site with an easement? If so, how much do they pay? Is it more than the cost would be to plant on site?	N/A	Yes. Cost is private negotiation. Ratios vary from 2X, 3X to 4X depending on location or mitigation size. Current prices for near in sites is about \$3000. per acre. Further sites are cheaper but larger plots are required.	Developers can protect existing trees off site. The amount they pay is an amount negotiated between the developer and the property owner. The County is not involved with those discussions. It is unknown if (it) costs more to protect existing trees off site versus planting on site since those are costs borne by the developer.	Off site mitigation banking is a private market in Price Georges County, which is overseen by the Environmental Planning Section. Costs of acreage in mitigation banks varies and is set by market forces.
7. Is there a requirement that adjoining neighbors, civic associations and/or others be given advance notice of pending forest clearing covered by the Forest Conservation Law?	Urban Forest Preservation Act, p.3, Section 105A	No	No	There is no direct notice requirement for issuance of a guiding permit. Most development application types have notice requirements that result in the notification of nearby municipalities, adjacent property owners, and nearby civic and homeowner associations.
7 A. How long before the planned clearing must the notice be given?		N/A	N/A	

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May plant trees on public property or pay into a fund to plant trees on public property.	If site requires 10 trees to be replaced and only 9 can be planted, the developer must pay \$2,400 a tree.	They must apply the tree canopy requirements (Virginia calculations of tree replacement), or contribute to the tree fund.	A. Can they plant new forest off site with a conservation easement to protect the trees? If so, what is the ratio of original forest loss to off site planting required?
Does not apply	No	Developers can contribute to tree farms planted by the County or give funds to a 501C group like a garden club to use to plant trees. It must done with easements/deed restrictions to protect the trees.	B. Can developers pay to protect existing trees off site with an easement? If so, how much do they pay? Is it more than the cost would be to plant on site?
Not beyond the notification process for development.	No	Zoning cases involve public hearings with lots of opportunity for property owners, developers and government officials to confere.	7. Is there a requirement that adjoining neighbors, civic associations and/or others be given advance notice of pending forest clearing covered by the Forest Conservation Law? If so
	N/A	public hearings	A. How long before the planned clearing must the notice be given?

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7 B. How must it be given - by written notice, posting of a permit board on the property or by other means?	Dept of Transportation gives notice about trees in the public right-of-way that are not hazardous that are to be removed to the local Advisory Neighborhood Commission not less than fifteen days prior to the work.	N/A	N/A	Major development applications have a requirement whereby signs are posted in prominent locations at least 30 days prior to the public hearing on the case. If any application has a detailed plan requirement that is to be heard by the Planning Board, notice is provided.
8. Does the law require afforestation (adding forest) in developing land where there is insufficient forest on site? If so, how is this accomplished?	N/A	Not required.	The Montgomery County Forest Conservation Law has an afforestation requirement if a development property has forest below a certain percentage of the tract size. The developer either plants on or off site, with the highest priority for planting on site.	The FCA and the WCO have an afforestation threshold for sites which are subject to the ordinance but contain limited woodlands on site. Afforestation is accomplished through approval of a TCPII and bonding for implementation at time of grading permits.
9. Are amendments to the existing Forest Conservation Law being considered? What changes/improvements are being proposed and by whom?	No	A recent modification to the Ordinance lists what trees should be used along streets and medians.	The current amendments to the Forest Conservation Law are to clarify the language of the law with a moderate strengthening.	A revision to the WCO is currently being proposed to codify requirements of the state code, a variety of policies that have been adopted, and clarifications made since last update in 1993.
10. How is the Forest Conservation Law enforced?	All ISA (International Society of Arboriculture) arborists have the authority to write citations	Planning Board negotiation and threat of fines.		

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	N/A	There is a posting requirement of sixty days to let neighbors know land is to be developed.	B. How must it be given - by written notice, posting of a permit board on the property or by other means?
Minimum canopy cover requirement	Must meet CBO requirements for canopy coverage - for developments.	Yes, In 1990 the law required that a tree canopy be implemented.	8. Does the law require afforestation (adding forest) in developing land where there is insufficient forest on site? If so, how is this accomplished?
No	None at this time. Any changes would have to be approved by the State of Virginia.	No. The new law that went into effect January 1, 2009, is being implemented now.	9. Are amendments to the existing Forest Conservation Law being considered? What changes/improvements are being proposed and by whom?
			10. How is the Forest Conservation Law enforced?

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<u>County Forest Conservation Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
10 A. Is the developer who plants new trees required to place a bond to assure that the trees are healthy at the end of a certain period of time in order to assure the long term existence of a healthy new "replacement forest"?	This is part of the overall project bond.	Yes	Yes	The WOC is enforced by county inspectors.
10 B. How long does the bond last - two years, five years, longer?	two years	two years	two years	two years with a five year maintenance plan.
11. What happens if people cut down forest without going through the process of complying with the law?		County Planning Board negotiates with offender.	If the forest removal is on a property subject to the forest conservation law, they can be cited for administrative, civil and criminal penalties.	A violation of the WCO is issued and the violator is required to prepare and implement a mitigation plan to resolve the violation.
11 A. What are the fines?	If a developer or private citizen removes a tree which qualifies as a "special tree" (which is 18" in diameter ABH [at breast height] or 55 inches in circumference) without getting the proper permit, the penalty is \$1,000 per inch of circumference. Contractors working in the public right-of-way are fined for removal of trees of smaller size, as well.	\$5000. per acre - but has never been necessary. County Planning has been able to negotiate satisfactory solution.	Maximum amount of a citation is \$1000. Administrative penalties can be up to \$9.00 per square foot of forest removal.	\$1.50 per square foot of the area of the violation
11 B. Are there criminal penalties?	Damage or removal of any public tree is punishable by fine and jail time.	No	Yes	

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Landscape bond	Only in special circumstances	Surety bond for zoning cases. Conservation deposit to cover "by-right" development.	A. Is the developer who plants new trees required to place a bond to assure that the trees are healthy at the end of a certain period of time in order to assure the long term existence of a healthy new "replacement forest"?
one year	typically five years - but it varies	No set limit. Determined by site. Typically four to five years.	B. How long does the bond last - two years, five years, longer?
Fine, imprisonment or both		For a disturbance of over 2500 feet, fines are levied from \$10.- \$1,000. (or more if the situation isn't rectified)	11. What happens if people cut down forest without going through the process of complying with the law?
Not to exceed \$500.	Varies on the situation. \$2500. per tree as per Ordinance.	Within the context of the Land Development Ordinance, if the person doesn't submit a conservation plan and cuts down more than allowed, the fine can be up to \$1000., which can go up if the situation is not corrected.	A. What are the fines?
Yes, imprisonment in the Alexandria Correctional Center, not to exceed six months.	No, just civil penalties	Non compliance can mean heavy fines or a year in prison.	B. Are there criminal penalties?

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Chart 2.	District of Columbia	Maryland		
<u>County Tree Protection Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
1. Does the County have a Tree Protection Law or Ordinance that affects the cutting and replacing of trees on individual residential lots?	Yes	No	No	No
1 A. What is the title of the law? Can you give me a copy of the law or the link so I can print out a copy?	D.C. Act 14-614	Charles County has no tree ordinance sparate from the Forest Conservation Ordinance.	No	The County (PG) does not have a law other than the WCO to protect the cutting and replacing of trees on individual lots.*
1 B. If there is no current law, is there one being proposed?	N/A	Ordinances are being considered.	There is no tree protection law or ordinance in Montgomery County and one has not be proposed, though Councilmember Berliner has indicated his desire to implement one.	No
2. Under what conditions does the Tree Protection Law affect proposed tree removal on individual residential lots, i.e., the size, health, species of the tree or other reasons?	Special trees (over 55" circumference require a permit for removal. A city arborist will inspect the tree before a permit is granted. Hazardous trees are required to be removed or the city will do so and bill the home owner.	N/A	N/A	N/A
2 A. If the basis is the diameter of the tree - are there different categories for trees that are large and small at maturity?	No	N/A	N/A	N/A

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Virginia			
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	<u>County Tree Protection Law</u>
Yes, Alexandria has provisions in its code to protect trees when properties are subject to subdivision, site plan and special use permit approval. Trees on single residential lots that have no designated trees have no restrictions.	Yes, Chapter 67 of the Arlington County Code establishing a tree preservation ordinance protecting trees on county property etc.	Yes, The Fairfax County Tree Conservation Ordinance passed 10/20/08. came into effect on 1/1/09. Although it is a tree canopy law, it does address individual existing trees in certain specific instances.	1. Does the County have a Tree Protection Law or Ordinance that affects the cutting and replacing of trees on individual residential lots?
Alexandria Zoning Ordinance, Section 11-410; Title 6 Recreation, Parks and Cultural Activities, Chapter 2 Trees, Shrubs, Plants and Vegetation.	Tree Preservation Ordinance of Arlington County, VA.	Chapter 122, Fairfax County Tree Conservation Ordinance and the Public Facilities Manual.	1 A. What is the title of the law? Can you give me a copy of the law or the link so I can print out a copy?
N/A	N/A	N/A	1 B. If there is no current law, is there one being proposed?
Criteria established for designating trees for Historic or Specimen status is loosely based upon established tree valuation methods that consider tree species, size, condition, location, age or historical reference.	See Arlington Co. Tree & Shrub Ordinance, Chapter 67-3-2 - i.e. trees nominated for protection by the County Board.		2. Under what conditions does the Tree Protection Law affect proposed tree removal on individual residential lots, i.e., the size, health, species of the tree or other reasons?
There is no distinction made for the size of the tree at maturity. i.e. there is not distinction between large shade trees and ornamental trees.	Size - compared to trees in notable tree program or of that species		2 A. If the basis is the diameter of the tree - are there different categories for trees that are large and small at maturity?

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Chart 2.	District of Columbia	Maryland		
<u>County Tree Protection Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
2 B. Is special protection afforded to native trees?	No	N/A	N/A	N/A
2 C. Are there other special categories of trees with a higher level of protection, such as rare species or trees with a historical importance/association to the local area (i.e., the tree the founders day picnic was at for years.)	There are no historic trees on District property. Federal property is not under the authority of the Urban Forestry Administration.	N/A	N/A	N/A
2 D. Are there types of trees that are considered undesirable and automatically approved for removal such as invasive species?	Yes, 3 trees: Mulberry, Normandy Maple, Tree of Heaven (Ailanthus altissima).	N/A	N/A	N/A
3. If a person wants to remove a tree on a residential property, is a permit required? What is the process for this?	Trees over 55" circumference are considered Special Trees and require a permit for removal. A city arborist must inspect the tree before a permit is approved. Application for permits is made at Urban Forestry Admin. 2217 14th St. NW.	N/A	N/A	Tree removal on a residential property not subject to a tree conservation plan does not require a permit from the county, although municipalities within the county may require a permit.
4. Is a person who wants to remove a tree required to give notice?	They need a permit for over 55" circumference but not for less than that and not for bushes or vines on their property.	N/A	N/A	Trees within a woodland conservation area may be removed if they are found to be dead, dying or hazardous based on the evaluation of a licensed professional, as long as the stump remains.

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Virginia			
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	<u>County Tree Protection Law</u>
No	No	No	2 B. Is special protection afforded to native trees?
Specimen and Historic trees are identified using similar criteria and are afforded the same protection.	Yes, Champion Trees (largest, most beautiful, historical, memorial or notable in other ways).	Yes - Heritage, Memorial, Street, and Specimine Trees.	2 C. Are there other special categories of trees with a higher level of protection, such as rare species or trees with a historical importance/association to the local area (i.e., the tree the founders day picnic was at for years.)
Alexandria's code does not identify tree species as undesirable or invasive and does not have a program that encourages the eradication of specific species.	Yes, Non native invasive species.	No	2 D. Are there types of trees that are considered undesirable and automatically approved for removal such as invasive species?
No	Only if it is a designated tree or in a designated historical area - ex: Maywood.		3. If a person wants to remove a tree on a residential property, is a permit required? What is the process for this?
A permit is required only if a property is subdividable or subject to site plan, special use permit, or if a tree on a property has been designated a specimen or historic tree.	Generally No.		4. Is a person who wants to remove a tree required to give notice?

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Chart 2.	District of Columbia	Maryland		
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4 A. Do they need to post a permit board and/or give written notice to adjoining neighbors and the civic association?	No	N/A	N/A	N/A
4 B. How long before the intended removal must this occur and for what period of time?	N/A	N/A	N/A	N/A
5. Is replanting on their own property required of those who remove trees?	No. They can pay a fee.	N/A	N/A	If the tree removal results in disturbance of more than 5000 sq ft, they are subject to the WCO. Replanting may be subject provisions of the Landscape Manual.
6. If a person can't replant on site, can they make up for the loss by paying into a tree fund to have trees planted elsewhere?	Yes, or they can plant trees in nearby areas e.g. street trees or city parkland.	N/A	N/A	Fee-in-lieu is accepted as a form of woodland conservation to meet the requirements of the WCO.
6 A. How much do they pay?	\$35. for each inch of circumference of the Special Tree.	N/A	N/A	\$.30 per sq ft of woodland conservation required.

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Virginia			
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	<u>County Tree Protection Law</u>
No	N/A		4 A. Do they need to post a permit board and/or give written notice to adjoining neighbors and the civic association?
N/A	N/A	Timed with release of the construction bond, typically 4 to 5 years.	4 B. How long before the intended removal must this occur and for what period of time?
A property owner may be required to plant trees on a residential property that is subdividable, subject to a site plan, special use permit or grading plan, or as a condition for Sec. 6-2-35. Same-replacement of trees as a condition.	Not unless it is part of a development project.	Replanting might be required under Chapter 120, Street Trees.	5. Is replanting on their own property required of those who remove trees?
Yes	Yes, but only on large commercial site plan projects.	If the developer doesn't meet certain criteria, he can provide tree canopy at another site.	6. If a person can't replant on site, can they make up for the loss by paying into a tree fund to have trees planted elsewhere?
Usually \$250 per tree.	\$2,400. for each tree they could not plant.	Developers can contribute to a tree firm, either planted by the county or give funds to a 501C group to plant trees (such as a garden club). It must be done with easement/deed restrictions to protect the trees.	6 A. How much do they pay?

**Landscape Design Council of the
National Capital Area Garden Clubs
Forest Conservation and
Tree Protection Survey
of Laws and Regulations, 2008-2009**

Chart 2.	District of Columbia	Maryland		
<u>County Tree Protection Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
6 B. If required, is the offsite planting to be within the same sub-watershed?	N/A	N/A	N/A	The fee can be targeted to specific locations by action of the Planning Board (such as within a watershed or within a municipality) but is generally placed in a fund for countywide projects.
7. How do you enforce your tree law?	By fines. All the Urban Forestry Admin arborists have the authority to stop work, revoke permits and write citations.	N/A	N/A	Landscape buffers are enforced by the Community Standards Sect. of the Dept of Environmental Resources and the Dept of Public Works and Transportation.
7 A. Are there penalties?	Yes, Failure to comply with the permit constitutes a violatoin subject to a fine of not less than \$100 per inch of the circumference of the Special Tree in question.	N/A	N/A	Fines
7 B. Do you inspect on site to assure compliance?	Yes	N/A	N/A	Yes, county inspectors.

**Landscape Design Council of the
National Capital Area Garden Clubs
Forest Conservation and
Tree Protection Survey
of Laws and Regulations, 2008-2009**

Virginia			
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	<u>County Tree Protection Law</u>
Off-site planting is not limited to the same sub-watershed.	No		6 B. If required, is the offsite planting to be within the same sub-watershed?
Yes	Rely on reported violations of Tree & Shrub Ordinance.		7. How do you enforce your tree law?
Yes. See Sec. 6-2-52 Penalty - a fine up to \$500, or imprisonment up to 6 months, or both.	Yes. \$2500. per tree removal per Ordinance.		7 A. Are there penalties?
As-built landscape plans are submitted for approval following the completion of all site plans and special use permits. Grading plans are subject to inspection by the Construction and Inspection division of the Dept. of Transportation and Environmental Services.	Yes, on reported violations.		7 B. Do you inspect on site to assure compliance?

Landscape Design Council of the
National Capital Area Garden Clubs
**Forest Conservation and
Tree Protection Survey
of Laws and Regulations, 2008-2009**

Chart 2.	District of Columbia	Maryland		
<u>County Tree Protection Law</u>		<u>Charles</u>	<u>Montgomery</u>	<u>Prince Georges</u>
8. Is there a legal requirement that money paid into a tree fund (from fines and penalties) be dedicated and used for replanting or maintenance?	Yes	N/A	N/A	Yes, the funds are mainly used for community tree planting projects.

**Landscape Design Council of the
National Capital Area Garden Clubs
Forest Conservation and
Tree Protection Survey
of Laws and Regulations, 2008-2009**

Virginia			
<u>Alexandria</u>	<u>Arlington</u>	<u>Fairfax</u>	<u>County Tree Protection Law</u>
Money paid for planting off site is held in a fund used for the purpose of planting and maintaining trees. Fines and fees are paid into the County's general fund and not designated for the same purpose.	Yes. Also for educational outreach.		8. Is there a legal requirement that money paid into a tree fund (from fines and penalties) be dedicated and used for replanting or maintenance?

III. FINDINGS AND RECOMMENDATIONS

Findings:

The counties and the District of Columbia have well educated, dedicated professional people in charge of the forest conservation and tree ordinance programs.

The smaller, older areas such as the District of Columbia, Arlington and Alexandria seem to have rigorous and well enforced regulations for tree protection.

Rural Charles County does not have great pressure yet for development destructive to forest canopy and its current regulations are relatively weak. This county might still have time to put in place effective policy before irreparable harm is done.

Regarding forest conservation: The various jurisdictions, when mandating replanting by developers, have different requirements as to the size of the trees planted and the length of time the developer is responsible to care for the tree – from one year to five years. (However, planting small sized saplings and caring for them for only one or two years is ineffective because the deer can severely damage young saplings or drought or other weather conditions can more easily kill them.) Enforcement of existing regulations is weak in the large counties due to lack of adequate staff and competing priorities for staff time. Only complaints of violations by homeowners seem get attention.

Regarding tree protection: There are tree ordinances in the many incorporated cities, towns and villages within the counties. Each of these entities has its own rules. However, the unincorporated areas are not regulated at all if a property is smaller than 40,000 sq. ft.

The larger counties still are under strong pressure from developers not to impede in any significant way their rights to cut down trees. The developers claim that large existing trees get in the way of the bull dozers and lessen the space for building big houses on small lots. Therefore the big trees are cut down unless restricted by regulation. Protecting existing trees requires more work and costs. But The National Association of Home Builders has stated “Tree preservation and planting trees not only has environmental benefits, it makes business sense as well...” (See Appendix B for the full statement from the Association’s website.)

Recommendations:

Citizens associations and garden clubs in the National Capital Area are encouraged to use the results of this survey data as an impetus for contacting their elected officials and candidates for elected office to request their support in protecting local forests and trees. It is essential that we change public policy to put forest conservation, reforestation, and tree retention above commercial profits and the poor stewardship of some home owners.

Property owners and developers can have a positive impact on saving and improving the tree canopy by becoming more knowledgeable about the trees they plant. Not all trees are equally useful and beneficial. Some local counties already require or give preference to planting native trees such as the white oak. Some counties encourage the removal of trees such as the invasive Tree of Heaven, *Ailanthus altissima*, that produces chemicals that kill or prevent other plant life from growing in the vicinity. Another example is the once highly valued Bradford Pear, *Pyrus calleryan*, that is crowding out native species in the woods and parklands. Both trees spread rapidly from dispersed seeds.

IV. NEW DEVELOPMENTS IN 2009

Arlington County has been publicizing their Champion Tree Program that is part of the National Heritage Tree Project.

Fairfax County has begun implementing a comprehensive new law strengthening protections for their remaining forest land.

Montgomery County has started a Tree Coupon program giving out \$25.00 coupons for the planting specified native trees on homeowners' property costing at least \$75.00. The State of Maryland has a similar program, and both programs can be combined for a single tree. Homeowners can purchase and plant multiple trees under these programs.

Montgomery County Councilmember Marc Elrich's fine recommendations on forest conservation did not gain enough support from other council members to pass. Mr. Elrich is currently working with the office of the County Executive to insert his proposals into an executive order as an alternative way of achieving the desired result: deterring removal of forest. It is also hoped that Councilmember Roger Berliner's Tree Ordinance proposals will be included.

Prince Georges County recently prepared a draft to update their Woodland Conservation Ordinance and other environmental laws. As we go to press, the County Council is considering this draft legislation package that includes the first ever tree canopy ordinance.

The Prince Georges County Council recently designated the Willow Oak as the new county tree to replace the Bradford Pear, which has proven extremely problematic.

V. PARTICIPANTS IN THE SURVEY

Implementing Agency Official

Elected Official

Landscape Design Council Member

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Patricia Hanrehan

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Redella S. "Del" Pepper,
Vice Mayor
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Joan Boudreau

FAIRFAX COUNTY

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Susan Tipton
Dianne Gregg

VI. HOW TO GET COPIES OF THE LOCAL LAWS AND REGULATIONS:

District of Columbia: Urban Forestry Preservation Act of 2002

http://app.ddot.dc.gov/ufa/information/tree_bill.shtm

Charles County, Maryland: Forest Conservation Ordinance

<http://www.charlescounty.org/>

Montgomery County, Maryland: Montgomery County Forest Conservation Law of 1992. Chapter 22A-16 of the County Code;

[http://www.montgomeryplanningboard.org/
markpfefferle@mncppc-mc.org](http://www.montgomeryplanningboard.org/markpfefferle@mncppc-mc.org)

Prince Georges County, Maryland: Woodland Conservation Ordinance for Prince Georges County found in Title 5, Subtitle 16

http://www.pgplanning.org/Projects/Ongoing_Plans_and_Projects/Environmental.htm

New updates of the ordinance being considered can be found at

www.mncppc.org/county/Environ_legislation/

Alexandria County, Virginia: Title 6 Recreation, Parks and Cultural Activities, Chapter 2 Trees, Shrubs, Plants and Vegetables

http://www.municode.com/resources/ClientCode_List.asp?cn=Alexandria&sid=46&cid=980

Arlington County, Virginia: Chesapeake Bay Tree Regulations

<http://www.arlingtonva.us/Departments/EnvironmentalServices/epo/pdffiles/cbpoguide.pdf>
and <http://www.arlingtonva.us/default.aspx>

Tree and Shrub Ordinance:

<http://www.arlingtonva.us/departments/ParksRecreation/scripts/parks/ParksRecreationScriptsParksTreesOrdinance.aspx>

Fairfax County, Virginia: Tree Conservation Ordinance, Chapter 122

[http://www.fairfaxcounty.gov/dpwes/publications/pfm/treeconservation/
Michael.knapp@fairfaxcounty.gov](http://www.fairfaxcounty.gov/dpwes/publications/pfm/treeconservation/Michael.knapp@fairfaxcounty.gov)

Appendix A.
Survey Materials

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III. Survey Questionnaire for Elected Officials	34

I. Interviewer Directions

Landscape Design Council President's Project on Tree Protection

TO: LDC Member Soliciting Information and/or Conducting an Interview with Your County Officials

THE PROJECT: To find out whether your county has a Forest Conservation or a Tree Protection Law and what exactly these laws entail? The next step is to compare the various county laws and publish a comparison chart and information. The reason for this project is to show how our local counties are helping to stop deforestation and loss of tree cover.

Counties often attempt to stop deforestation by addressing it in two ways:

- 1. Forest Conservation Laws – which outline what developers are required to do to stop loss of our forests.**
- 2. Tree Protection Laws – which outline what homeowners (owners of single residential properties) are required to do to stop loss of trees.**

Some Counties have only a Forest Conservation Law. Some Counties have only a Tree Protection Law. Some have neither. Some are working to amend their laws in order to strengthen them. Some are developing laws in these areas for the first time.

Our goal is to compare the existing Forest and Tree Protection Laws in the Counties of the National Capital area where our members live. We will identify those Counties whose laws are currently undergoing revision, or where new laws are being developed. We will subsequently publish this information.

Your County may not have in place all aspects of what would be a model law. That will also be valuable information to acquire. We plan to publish a chart comparing the coverage of the local counties when we have all the information.

Begin by reading through the attached Questionnaires. If you have questions, call Dianne Gregg 301-299-6456 or Susan Tipton 301-299-4532.

Then contact by phone your County Council member or other local elected official who would have information on this subject. Tell them briefly who you are (a member of the Landscape Design Council and the National Capital Area Garden Clubs with thousands of members and you are not speaking for yourself alone). Tell them about the project and the Questionnaires, and that you would like to meet with them in two weeks to discuss the Questionnaires. Tell them you will send a copy of the Questionnaires in advance so they will be prepared to answer the questions.

Tell them you would like to interview the elected official on the policy issues and the agency official on the technical issues. Set a date for the interview(s). This could be done either together or meeting separately.

If either official refuses to have an interview, ask them to answer the questions and return the Questionnaires to you by mail by 8/24/08.

Attached are our Questionnaires on FOREST CONSERVATION and TREE PROTECTION LAWS.

Questionnaire 1 on Policy Issues is to be sent the elected official.

Questionnaire 2 on the technical issues is to be sent the agency official in charge.

We can be an effective part of the movement working to prevent loss of our irreplaceable forests and residential trees. Thank you for agreeing to assist us in this important project! Please return the completed Questionnaires by the end of August.

**Dianne Gregg
President, Landscape
Design Council, NCAGC**

**Susan Tipton
Green Chair and
Tree Protection Project**

II. Survey Questionnaire for Implementing Officials

LANDSCAPE DESIGN COUNCIL OF THE NATIONAL CAPITAL AREA GARDEN CLUBS FOREST CONSERVATION AND TREE PROTECTION PROJECT

QUESTIONNAIRE FOR THE IMPLEMENTING AGENCY OFFICIAL

Our goal is to compare the existing Forest Conservation and Tree Protection Laws in the District of Columbia and the Counties of the National Capital area where our members live. We will indicate those Counties whose laws are currently undergoing revision, or where new laws are being developed. We will subsequently publish this information.

County Forest Conservation Law

- 1. Are there any existing Forest Conservation Laws in your County? If not, is a new law being considered? Please give me a copy of any law or proposed law, or the link so that I can print a copy.**
- 2. What is the level of forest disturbance necessary to trigger the Conservation Law? (for example: Is the Law triggered if more than 5,000 square feet is to be cleared?)**
- 3. Under what conditions is a developer required to plant replacement trees? (reforestation).**
- 4. What is the size requirement for replacement trees?**
- 5. What maintenance period is required of the developer to assure that newly planted trees survive (i.e. two years, five years?)**
- 6. If a developer is allowed to mitigate offsite (make up for loss of forest), what are the possible ways?**

- A. Can they plant new forest offsite with a conservation easement to protect the trees? If so, what is the ratio of original forest loss to offsite planting required?**
 - B. Can developers pay to protect existing trees offsite with an easement? If so, how much do they pay? Is it more than the cost would be to plant onsite?**

- 7. Is there a requirement that adjoining neighbors, civic associations and/or others be given advance notice of pending forest clearing covered by the Forest Conservation Law? If so**
 - A. How long before the planned clearing must the notice be given?**
 - B. How must it be given – by written notice, posting of a permit board on the property or by other means?**

- 8. Does the law require afforestation (adding forest) in developing land where there is insufficient forest on site? If so, how is this accomplished?**

- 9. Are amendments to the existing Forest Conservation Law being considered? What changes/improvements are being proposed and by whom?**

- 10. How is the Forest Conservation Law enforced?**
 - A. Is the developer who plants new trees required to place a bond to assure that the trees are healthy at the end of a certain period of time in order to assure the long term existence of a healthy new “replacement forest”?**
 - B. How long does the bond last - two years, five years, longer?**

- 11. What happens if people cut down forest without going through the process of complying with the law?**
 - A. What are the fines?**
 - B. Are there criminal penalties?**

County Tree Protection Law

- 1. Does the County have a Tree Protection Law or Ordinance that affects the cutting and replacing of trees on individual residential lots?**
 - A. What is the title of the law? Can you give me a copy of the law or the link so I can print out a copy?**
 - B. If there is no current law, is there one being proposed? Who is leading this effort? What stakeholders are involved?**
- 2. Under what conditions does the Tree Protection Law affect proposed tree removal on individual residential lots, i.e., the size, health, species of the tree or other reason?**
 - A. If the basis is the diameter of the tree- are there different categories for trees that are large and small at maturity?**
 - B. Is special protection afforded to native trees?**
 - C. Are there other special categories of trees with a higher level of protection, such as rare species or trees with a historical importance/association to the local area (i.e., the tree the founders day picnic was held at for years)?**
 - D. Are there types of trees that are considered undesirable and automatically approved for removal such as invasive species?**
- 3. If a person wants to remove a tree on a residential property, is a permit required? What is the process for this?**
- 4. Is a person who wants to remove a tree required to give notice?**
 - A. Do they need to post a permit board and/or give written notice to adjoining neighbors and the civic association?**

- B. How long before the intended removal must this occur and for what period of time?**
- 5. Is replanting trees on their own property required of those who remove trees?**
- 6. If a person can't replant on site, can they make up for the loss by paying into a tree fund to have trees planted elsewhere?**
- A. How much do they pay?**
- B. If required, is the offsite planting to be within the same sub-watershed?**
- 7. How do you enforce your tree law?**
- A. Are there penalties?**
- B. Do you inspect on site to assure compliance?**
- 8. Is there a legal requirement that money paid into a tree fund (from fines and penalties) be dedicated and used for replanting or maintenance?**

END OF QUESTIONNAIRE

Thank you very much for answering these questions and assisting us with this project. We will send you the published results of this Questionnaire.

**Dianne Gregg
President, Landscape
Design Council, NCAGC
301-299-6456
glassnob@aol.com**

**Susan Tipton
Green Chair and
Tree Protection Project
301-299-4532
stipto7@yahoo.com**

III. Survey Questionnaire for Elected Officials

LANDSCAPE DESIGN COUNCIL OF THE NATIONAL CAPITAL AREA GARDEN CLUBS FOREST CONSERVATION AND TREE PROTECTION PROJECT

POLICY QUESTIONNAIRE FOR ELECTED COUNTY OFFICIAL

Our goal is to compare the existing Conservation Forest and Tree Protection Laws in the District of Columbia and the Counties of the National Capital area where our members live. We will indicate those Counties whose laws are currently undergoing revision, or where new laws are being developed. We will subsequently publish this information.

1. A. Are there any existing Forest and/or Tree Protection Laws in your County? What is the title of the law? Will you give me copies (or the link so that I can print out copies)?

B. If there are no existing laws, are there some being considered? What are they?

2. A. How well are the existing laws being enforced?

B. Are there criminal penalties as well as fines?

3. Is every citizen in the jurisdiction vested with legal standing to challenge a decision of the authorizing agency that grants approval of a developer's plan, if the decision was based on false or misleading information?

4. Does the County itself have to follow the same laws as developers?

5. Is there a mechanism, such as a hotline, for citizens to help assure that these laws are being enforced?

6. If there is a tree protection law,

A. Is a permit required for tree removal of all trees on private property as well public properties such as schools?

B. Is tree replacement required?

FOREST AND TREE PROTECTION LAWS QUESTIONNAIRES

County

Elected Official Contacted, Title

Phone Number, Email address

Implementing Agency Official Contacted, Title

Phone Number, Email address

Landscape Design Council Member, Phone Number,

Street Address, E-mail address

END OF QUESTIONNAIRE

Thank you very much for answering these questions and assisting us with this project. We will send you the published results of this Questionnaire.

Dianne Gregg
President, Landscape
Design Council, NCAGC
301-299-6456
glassnob@aol.com

Susan Tipton
Green Chair and
Tree Protection Project
301-299-4532
stipto7@yahoo.com

Appendix B,

Quotes from

National Association of Home Builders

Tree Conservation

“Tree Preservation and planting trees not only has environmental benefits it makes business sense as well. Research shows that communities with mature trees and plenty of shady open space tend to have higher home values than those without. However, tree preservation and building new communities around existing trees takes technical know-how and expertise.”

In relation to this statement, NAHB staff has prepared a paper on tree preservation ordinances. Some excerpts follow.

Tree Preservation Ordinances

“Tree and woodland preservation appears to be the next emerging environmental issue now that there are local, state, or federal regulations requiring the development community to address floodplains, stormwater, wetlands, water quality, endangered species, steep slopes, and even air quality. Many references are being made in the media to tree loss and its potential connection to various environmental quality issues. Trees are a visible presence in a community and easily noticed when they are removed or damaged.

Often, the development community is viewed as being primarily responsible for removing or destroying trees, though the public sector, utilities, and agricultural operations also remove trees. As a result, more and more communities are turning their attention from standards that protect street trees on public property to more complex tree or woodland preservation ordinances that protect trees affected by construction activity. In April, 1991, the Maryland General Assembly passed the first statewide bill on forest preservation and reforestation.

Yet, saving trees in a community is more difficult than merely expecting developers to try to do a better job by complying with new standards. What is needed is not an adversarial process between local officials, citizens, and developers, but a more cooperative one. Flexibility and cooperation go a long way toward generating broad support for tree preservation requirements when they are adopted. Both those writing the regulations and those subject to them should realize that they share a common goal, namely, that mature trees and landscaping enhance a community's image and that protecting these resources is worthwhile. Trees are aesthetically pleasing and are well known to increase real estate values by as much as 15 percent. They increase home energy efficiency through shading and cooling, filter air pollution, buffer noise and wind, and provide wildlife habitat as well as pleasant visual relief.

Local officials and the public need to have a better understanding of development constraints and particularly need to recognize how other local regulations, such as grading, curbing, utility installation, stormwater management, and street width requirements, affect developers' ability to save more trees than they typically do.

...

At the same time, developers can benefit from knowing that, by means of increasing real estate values, trees enhance the marketing and resale potential of any property. Besides this "curb appeal," mature trees can be a cost-effective alternative to clearing a site and then landscaping with nursery stock. Learning more about how to save or transplant trees on a site and how to reduce potential damage to trees from construction activities not only saves money in the landscaping budget but sets an example of responsible, environmentally sensitive development. This demonstration of stewardship and excellence builds a strong public image of a developer who is taking positive environmental actions and is concerned about quality. Such a reputation can translate to not only to surer sales, but easier development approvals and respect within the industry.

...

Conclusion

Successful tree conservation requires a shared vision and a commitment from developers, government officials, and local communities to work together and to acknowledge the challenges developers and builders face. Officials and citizens need to understand that conserving trees means blending development with the land and should recognize the necessity to remove some trees during development to make room for homes, roads, ballfields, tot lots, stormwater management areas, and utilities. The best approach with ordinances is to get involved while they are being drafted. Many local development regulations have a built-in conflict between saving trees and developing land, and these should be examined so they are not working at cross-purposes with the tree preservation ordinance. If an unduly restrictive ordinance is already in place, developers should try to negotiate for flexibility using specific counterproposals that demonstrate how they could achieve more environmentally sensitive development."



Landscape Design Council of the
National Capital Area Garden Clubs
2009