



*City of Annapolis*

DEPARTMENT OF NEIGHBORHOOD & ENVIRONMENTAL  
PROGRAMS

160 DUKE OF GLOUCESTER STREET, ROOM 202, ANNAPOLIS, MARYLAND 21401  
ANNAPOLIS (410) 263-7946 • FAX (410) 263-9158 • Deaf, hard of hearing or speech disability - Use MD relay 0r 711 • [www.annapolis.gov](http://www.annapolis.gov)

Chartered 1708

January 14, 2014

To: City of Annapolis Planning Commission

From: Frank Biba, AICP, LEED AP  
Chief, Environmental Programs  
Department of Neighborhood and Environmental Programs

RE: O-32-14, Forest Conservation Requirements and Standards in the City of Annapolis

The State Forest Conservation Act, Natural Resources Article Title 5, Subtitle 16, was passed in 1992 with mandatory adoption by all of the state's jurisdictions. The Natural Resources Article included a recommended Model Ordinance, but the City of Annapolis instead adopted the state law by reference as O-11-92 and included it in City Code 17.09, Trees in Development Areas. The City's action was approved by the Maryland Department of Natural Resources.

A Forest Conservation Working Group was formed by the City Council in June, 2012 to review the Model Ordinance and make recommendations on the City's laws, policies and procedures implementing the Forest Conservation Act. This effort resulted in a proposed Forest Conservation Ordinance for the City of Annapolis, presented to the City Council in April, 2013.

O-32-14 is based upon the State's Model Ordinance, although in many ways different from the 2013 Working Group's proposal.

17.13.015 Terms and Conditions

p. 4, line 35, "FOREST CONSERVATION TECHNICAL MANUAL" ... SHALL HAVE THE FORCE OF LAW (line 42) ...

The State's Forest Conservation Technical Manual is a companion document to the Natural Resources Article and notes on p. 1-5: "This document is the technical manual for the State Forest Conservation Program and is informational only. It is not incorporated by reference into the Natural Resources Article of the Annotated Code of Maryland or the Code of Maryland Regulations (COMAR)..."

The Working Group's proposed ordinance also recommended the separation of the Manual from the Ordinance and the staff concurs.

p.5, line 28, "HEALTHY FORESTS"... "AS THE CITY ENVIRONMENTALIST SHALL SO DETERMINE." (line 34-35).

Reference is made throughout the Ordinance to the City Environmentalist as the sole staff person with the authority to approve most aspects of the Ordinance's review and implementation (Notably, 17.13.035 (I), p.15, line 16, and 17.13.40 (G) (12), p. 22, line 25). The Department disagrees with this construct as it identifies a mid-level staff position as a final authority, bypassing that position's supervisors, the Chief of Environmental Programs and the Department Director. The Department's preference is to use the typical identifier, "The Department Director or his or her designee."

#### 17.13.020 Application

17.13.020 (A), p. 10, lines 18, 20, 28

The Ordinance is made applicable to units of land 30,000 square feet or greater. The Natural Resources Article and the Model Ordinance are applicable to units of land 40,000 square feet or greater. The standards contained in City Code 17.09 are currently applicable to land areas of up to 40,000 square feet.

17.13.020 (B), p. 10, line 30.

Retroactivity of the Ordinance, making it applicable to any project subject to the Forest Conservation Act that has not yet received a grading permit. There are currently nine projects that could be affected, some of which have been under review for years.

17.13.020 (C) (11) (A) "WHEN ANY PROVISION OF THE STATE FOREST CONSERVATION ACT, CHESAPEAKE BAY CRITICAL AREA PROTECTION LAW, OR CITY CHARTER AND CITY CODE SHALL CONFLICT, THE DEPARTMENT SHALL EMPLOY THE LAW THAT CONTAINS THE MORE RESTRICTIVE REQUIREMENTS."

When the Natural Resources Article was incorporated into City Code 17.09 language was included that said when there was a conflict between the State and City regulations the more restrictive *may* be applied. 17.09 requires replacement and mitigation of trees removed in association with any grading or building permit on an individual basis, with the number of replacement trees dependent upon the diameter of the tree trunk. The Forest Conservation Act (FCA) requires mitigation based upon the tree canopy area removed above a certain threshold. 17.09 language acknowledges that tree replacement on a tree by tree basis when applied to large forested parcels can be onerous and instead allows the FCA standard to be applied. The Department prefers that the mitigation standard contained in 17.09 not be mandatory for parcels subject to FCA review and instead prefers that it remain elective, subject to unique circumstances.

The Forest Conservation Act is not applicable to parcels or parts of parcels within the Chesapeake Bay Critical Area. City Code 17.09 includes a section on tree removal and replacement requirements in the Critical Area.

#### 17.13.035 FOREST STAND DELINEATION CRITERIA

p. 13, line 9 through p. 15, line 47.

The Natural Resources Article and the Model Ordinance allow 30 days for jurisdictional review of a Forest Stand Delineation with a possible extension of 15 days. The City currently posts all applications and correspondence relating to FCA projects under review within a few days of receipt. The review/notification timeline in O-32-14 can be as much as twice the current review period.

#### 17.13.040 FOREST CONSERVATION PLAN

p.15, line 50 through p. 23, line 29

The Natural Resources Article and the Model Ordinance allow 45 days for jurisdictional review of a Forest Conservation Plan with a possible extension of 15 days. The City currently posts all applications and correspondence relating to FCA projects under review within a few days of receipt. The review/notification timeline in O-32-14 can be as much as twice the current review period.

17.13.040 (A) (2), p. 16, line 9: "WHERE THE EXISTING FOREST AND INDIVIDUAL SIGNIFICANT TREES CANNOT BE RETAINED, THE FOREST CONSERVATION PLAN SHALL PROVIDE FOR TREE REPLACEMENT, REFORESTATION AND AFFORESTATION IN ACCORDANCE WITH THIS CHAPTER AND CHAPTER 17.09 OF THE CITY CODE."

This section appears to require mitigation according to both the FCA and City Code 17.09. As discussed above, the Department would prefer the application of the current FCA standards with the option to apply additional replacement under 17.09 in unique circumstances.

17.13.040 (B) (3) (K), p. 17, line 40: Reference to the City's canopy coverage as measured in 2006 as 41%. The data has since been re-calibrated to be closer to 45%.

17.13.040 (15), (16), (17) and (18) Defines when appeals can be initiated and to whom appeals of approval or denial of a Final Forest Conservation Plan go to. The Working Group's recommendation was that there would be one appeal, of the Planning Commission's decision. These sections dictate that appeals of the Final Forest Conservation Plan go to the Building Board of Appeals. The Department prefers this construct, as it allows for some finality prior to Planning Commission review. (See further references to proposed appeal process below).

#### 17.13.045 RETENTION

17.13.045 (B) (7) p. 24, line 5. Current FCA regulation and the Working Group identify specimen trees as 30 inches in diameter or greater. This Section defines a specimen tree as 24 inches or greater.

17.13.045 (C) p. 24, line 13. New Section regarding priority retention areas.

17.13.045 (D) p. 24, line 36. New Section regarding priority trees.

#### 17.13.050 TREE REPLACEMENT REFORESTATION AND AFFORESTATION

Section (B): Identifies new replacement standards for trees removed that exceed both 17.09 and current FCA requirements. The Department considers this practice to be potentially onerous and prefers its current practice of invoking 17.09 replacement standards for trees of a diameter of 24 inches or greater.

17.13.050 (C) p. 26, line 35, Conservation and Afforestation Thresholds by Land Use Type.

Thresholds are input into the FCA worksheet and determine tree save and replacement requirements. O-32-14 raises all thresholds.

Current FCA regulation and Working Group recommendations are: Agricultural and resources areas, 50% Conservation, 20% Afforestation; Medium density residential, 25% Conservation, 20% Afforestation; Institutional development, 20% Conservation, 15% Afforestation; High density residential, 20% Conservation, 15% Afforestation; Mixed use and PUD, 15% Conservation, 15% Afforestation; Commercial and industrial, 15% Conservation and 15% Afforestation.

17.13.085 STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES. P. 32, line 34. These standards exist in City Code 17.09.040, .050, and .060.

#### CHAPTER 21.24 – PLANNED DEVELOPMENTS

p. 35, line 24 – p. 37, line 25.

New Section. Planning Commission standards for findings relative to FCA review and appeals procedure.

## APPEALS

Process as proposed requires clarification.

p. 16, line 50 p. 17, line 4: 17.13.040 (B) (2) "A Preliminary Forest Conservation Plan shall be submitted to the Department prior to an applicant's submission to the Planning Commission. A Preliminary Forest Conservation Plan that has been approved by the City Environmentalist shall be used by the applicant to prepare a submission to the Planning Commission."

p. 20, line 5 - 8, 17.13.040 (C) "Any decision of the Department Director regarding a preliminary Forest Conservation Plan is not appealable to any City administrative body or to any court, or in any other manner, either by the Applicant or any other person or entity."

p. 20, line 32 - 34, 17.13.040 (D) (4) (A) "A Final Forest Conservation Plan shall: Be submitted prior to or with an application for a grading permit, or an application for a sediment control permit; ..."

P. 22, line 25 -27, 17.13.040 (D) (12) " Only with the approval of the City Environmentalist does the Department Director have the authority to approve, deny, suspend or revoke a Final Forest Conservation Plan."

p. 35, line 51, 52, p.36 line 1 - 5, 21.24.090 (G) "The Planned Development Plan complies with Chapter 17.13 of the City Code. An application for a Planned Development shall not proceed to the Planning Commission for a public hearing until there is a final adjudication by the Department of Neighborhood and Environmental Programs, the building Board of Appeals, or the Courts, as the case may be, on the Final Forest Conservation Plan...."



*City of Annapolis*

**DEPARTMENT OF PLANNING AND ZONING**

145 Gorman Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401

Chartered 1708 Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

C. PETE GUTWALD, AICP  
DIRECTOR

January 15, 2015

MEMORANDUM

To: Annapolis Planning Commission

From: C. Pete Gutwald, AICP, Director of Planning and Zoning

Re: O-32-14 Forest Conservation Requirements and Standards in the City of Annapolis

BACKGROUND

O-32-14 proposes changes to Title 17 of the City Code which establishes under Chapter 17.13 requirements and standards for the processing of Forest Conservation Plans. The legislation was referred to the Planning Commission as it proposes changes to Title 21 and that requires review by the Planning Commission.

SUMMARY

The Department of Planning and Zoning was asked to review the legislation and offers the following comments:

- O-32-14 includes criteria for Planned Development applications, but excludes Subdivision, Special Exception and Site Design Plan Review applications. These excluded applications often meet the minimum requirements applicable for Forest Conservation review and thus should be included within O-32-14,
- Definition of Planned Development, p. 8, conflicts with Planned Development requirements in Section 21.24,
  1. O-32-14 *"a development the City of Annapolis has approved and is comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan which provides flexibility in land use design with at least 20% of the land permanently dedicated to open space"*,
  2. 21.24.060.B *"The area of common open space provided shall be equivalent to twenty (20) percent of the total ground area in residential planned developments and five (5) percent of the total ground area in business and special mixed planned developments"*,
- 17.13.020.B – Retroactivity of O-32-14 impacts numerous existing projects which have been vetted through the Site Design Plan Review, Planned Development (public hearing)

or Special Exception (public hearing) process, garnered the required approval and in some cases have recorded plats in the Anne Arundel County Land Records,

- 17.13.040.B.2 – Preliminary Forest Conservation Plan (Prelim. FCP) approval by the Department of Neighborhood and Environmental Programs (DNEP) prior to submission to the Planning Commission should be changed to, prior to submission to the Department of Planning and Zoning (P&Z),
- 17.13.040.B.3.A – Prelim. FCP shall include a Preliminary Plan of Subdivision or Proposed Project Plan during Site Design Plan Review prior to submission to the Planning Commission,
  1. All Site Design Plans do not go before the Planning Commission for approval,
  2. Applicants do not submit to the Planning Commission, as applications are submitted to P&Z per applicable review procedures,
- 17.13.040.D.8 – Requires a public hearing if requested by persons in writing. This equates to a possible public hearing (if requested by persons in writing) on the Prelim. FCP; a required public hearing on a Planned Development, Subdivision or Special Exception; and another possible (3<sup>rd</sup>) hearing on the Final FCP,
- 17.13.040.D.16 – Appeal by any person aggrieved of DNEP’s Final FCP (at grading permit stage) shall be heard by the Annapolis Building Board of Appeals. At this permit review stage development applications for Site Design, Special Exception, Subdivision and Planned Development have garnered the required zoning and adequate public facilities approval, in addition to final record plat recordation.
  1. Special Exception approvals/denials by the Annapolis Board of Appeals and Planned Development approvals/denials by the Annapolis Planning Commission are appealable to the Circuit Court for Anne Arundel County, conflicts with Final FCP’s appealable to Annapolis Building Board of Appeals after said Special Exception and Planned Development approvals,
- 21.24.090 p.36, lines 1-21 –
  1. Planned Development shall not proceed to the Planning Commission for public hearing until “final adjudication” by DNEP, Building Board of Appeals or the Circuit Court regarding the Final FCP conflicts with 17.13.040.D.4.A and 17.13.040.D.12 whereby Final FCP shall be submitted with application for grading permit or sediment control permit, which only occurs after Planning Commission public hearing and approval,
  2. *“The Planning Commission shall make no major changes to a Final FCP that is subject to a final adjudication”* appears to contradict the requirement that the Planning Commission provide written Findings that, *“the Planned Development Plan complies with Chapter 17.13 of the City Code”*.

1 **..Title**  
2 **Forest Conservation Requirements and Standards in the City of Annapolis** – For the  
3 purpose of adopting requirements and standards for forest conservation in the City of Annapolis;  
4 providing forest stand delineation and forest conservation plan requirements; providing  
5 exceptions to Chapter 17.13 of the City Code; providing for variance procedures; and all other  
6 matters generally relating to forest conservation in the City of Annapolis.

7 **..Body**

8  
9 **CITY COUNCIL OF THE**  
10 **City of Annapolis**

11 **Ordinance 32-14**

12  
13  
14 **Economic Matters Committee**  
15 **Rules and City Government Committee**  
16 **Finance Committee**

17  
18  
19 **Referred to:**

20  
21  
22 **Introduced by: Alderman Littmann, Alderman Arnett, Mayor Pantelides**

23  
24 **An ORDINANCE** concerning

25  
26 **Forest Conservation Requirements and Standards in the City of Annapolis**

27  
28 **FOR** the purpose of adopting requirements and standards for forest conservation in the City of  
29 Annapolis; providing forest stand delineation and forest conservation plan requirements;  
30 providing exceptions to Chapter 17.13 of the City Code; providing for variance  
31 procedures; and all other matters generally relating to forest conservation in the City of  
32 Annapolis.

33  
34 **BY** repealing and re-enacting with amendments the following portions of the Code of the City  
35 of Annapolis, 2012 Edition  
36 Section 17.09.025  
37 Section 21.24.090  
38 Section 21.24.120

39  
40 **BY** adding the following portions to the Code of the City of Annapolis, 2012 Edition  
41 Section 17.13.010  
42 Section 17.13.015  
43 Section 17.13.020  
44 Section 17.13.025  
45 Section 17.13.030  
46 Section 17.13.035  
47 Section 17.13.040  
48 Section 17.13.045  
49 Section 17.13.050  
50 Section 17.13.055  
51 Section 17.13.060  
52 Section 17.13.065  
53 Section 17.13.070  
54 Section 17.13.075  
55 Section 17.13.080



- 1 A. APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES FORESTER  
2 ASSIGNED TO THE CITY; AND  
3 B. THAT OPERATES AS A PROTECTIVE AGREEMENT FOR FOREST  
4 CONSERVATION AS DESCRIBED IN THE NATURAL RESOURCES ARTICLE,  
5 §§5-1607(E)---(F).  
6

7 "BREAK-EVEN POINT" MEANS THE AMOUNT OF FOREST THAT MUST BE RETAINED SO  
8 THAT NO MITIGATION IS REQUIRED.  
9

10 "CALIPER" MEANS THE DIAMETER MEASURED AT TWO INCHES ABOVE THE ROOT  
11 COLLAR.  
12

13 "CHAMPION TREE" MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE UNITED  
14 STATES, A STATE, A COUNTY, OR A MUNICIPALITY.  
15

16 "COMAR" MEANS THE CODE OF MARYLAND REGULATIONS.  
17

18 "COMMERCIAL AND INDUSTRIAL USES" MEANS MANUFACTURING OPERATIONS, OFFICE  
19 COMPLEXES, SHOPPING CENTERS, AND OTHER SIMILAR USES, AND THEIR  
20 ASSOCIATED STORAGE AREAS, YARDING AND PARKING AREAS.  
21

22 "CONTIGUOUS FOREST" MEANS A FOREST THAT CONNECTS THE LARGEST  
23 UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN, AND ADJACENT TO, A  
24 SITE.  
25

26 "CRITICAL HABITAT AREA" MEANS A CRITICAL HABITAT FOR AN ENDANGERED SPECIES  
27 AND ITS SURROUNDING PROTECTION AREA. A CRITICAL HABITAT AREA SHALL:

- 28 A. BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL OF THE  
29 SPECIES;  
30 B. BE LIKELY THAT THE SPECIES WILL OCCUPY THE AREA FOR THE  
31 FORESEEABLE FUTURE; AND  
32 C. CONSTITUTE HABITAT OF THE SPECIES THAT IS CONSIDERED CRITICAL  
33 PURSUANT TO THE NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-2A-  
34 06.  
35

36 "CRITICAL HABITAT FOR ENDANGERED SPECIES" MEANS A HABITAT AN ENDANGERED  
37 SPECIES OCCUPIES AS DETERMINED OR LISTED IN THE NATURAL RESOURCES  
38 ARTICLE, §§4-2A-04 AND 10-2A-04.  
39

40 "DECLARATION OF INTENT" MEANS:

- 41 A. A SIGNED AND NOTARIZED STATEMENT OF A LANDOWNER OR A  
42 LANDOWNER'S AGENT'S THAT CERTIFIES AN ACTIVITY ON THE  
43 LANDOWNER'S PROPERTY:  
44 1. IS FOR CERTAIN ACTIVITIES EXEMPTED PURSUANT TO THIS CHAPTER  
45 OR THE NATURAL RESOURCES ARTICLE, §§5-103 AND 5-1601---5-1612;  
46 2. DOES NOT CIRCUMVENT THE REQUIREMENTS OF THIS CHAPTER OR  
47 THE NATURAL RESOURCES ARTICLE, §§5-103 AND 5-1601---5-1612; AND  
48 3. DOES NOT CONFLICT WITH THE PURPOSES OF ANY OTHER  
49 DECLARATION OF INTENT.  
50 B. THE DOCUMENT REQUIRED UNDER COMAR 08.19.01.05 OR THIS CHAPTER.  
51

52 "DEPARTMENT" MEANS THE CITY OF ANNAPOLIS DEPARTMENT OF NEIGHBORHOOD  
53 AND ENVIRONMENTAL PROGRAMS.  
54

1 "FOREST MANAGEMENT PLAN" MEANS A PLAN ESTABLISHING BEST CONSERVATION  
2 AND MANAGEMENT PRACTICES FOR A LANDOWNER IN ASSESSING THE RESOURCE  
3 VALUES OF FORESTED PROPERTY.

4  
5 "FOREST MITIGATION BANK" MEANS AN AREA OF LAND WHICH HAS BEEN  
6 INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF  
7 PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

8  
9 "FOREST MITIGATION BANK AGREEMENT" MEANS AN AGREEMENT BETWEEN THE CITY  
10 AND AN INDIVIDUAL OWNING A FOREST MITIGATION BANK THAT COMMITS THE BANKER  
11 TO CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING AND OPERATING  
12 THE FOREST MITIGATION BANK.

13  
14 "FOREST MITIGATION BANK PLAN" MEANS A PLAN AN INDIVIDUAL PROPOSING TO  
15 ESTABLISH A FOREST MITIGATION BANK SUBMITS TO THE DEPARTMENT FOR  
16 APPROVAL OF A FOREST MITIGATION BANK.

17  
18 "FOREST STAND DELINEATION" MEANS THE COMPLETE AND CORRECT METHODOLOGY  
19 FOR EVALUATING THE EXISTING VEGETATION, WETLANDS, AND OTHER NATURAL  
20 RESOURCES, INCLUDING HYDRIC SOILS, SOILS WITH K FACTORS .35, AND ANY SLOPES  
21 OF .15% OR GREATER ON A SITE PROPOSED FOR DEVELOPMENT, AS PROVIDED IN THE  
22 FOREST CONSERVATION TECHNICAL MANUAL.

23  
24 "GROWING SEASON" MEANS THE PERIOD OF CONSECUTIVE FROST-FREE DAYS AS  
25 INDICATED IN THE CURRENT SOIL SURVEY PUBLISHED BY THE NATIONAL  
26 COOPERATIVE SOIL SURVEY PROGRAM, 16 U.S.C. §590(A)—(F).

27  
28 "HEALTHY FORESTS" MEANS A BIOLOGICAL COMMUNITY WHERE TREES AND  
29 OTHER WOODY PLANTS DOMINATE AND COVER A LAND AREA OF 10,000  
30 SQUARE FEET OR GREATER, WITH AT LEAST 70% CANOPY CLOSURE,  
31 ADEQUATE TREE STOCKING, NOTICEABLE TREE RECRUITMENT (INCLUDING  
32 MID-TO-LATE SUCCESSIONAL SPECIES), LESS THAN 35% AREA COVERAGE OF  
33 INVASIVE SPECIES, AND RELATIVELY FREE OF INSECT, DISEASE, STORM, AND  
34 OTHER DAMAGE (LESS THAN 45% CANOPY MORTALITY), AS THE CITY  
35 ENVIRONMENTALIST SHALL SO DETERMINE.

36  
37 "HIGH DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES GREATER  
38 THAN ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED  
39 DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS,  
40 UTILITIES, AND WATER AND SEWER SERVICE.

41  
42 "INSTITUTIONAL DEVELOPMENT AREA" MEANS SCHOOLS, COLLEGES, AND  
43 UNIVERSITIES, MILITARY INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND  
44 SEWER PROJECTS, GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES,  
45 RECREATION AREAS, PARKS, AND CEMETERIES.

46  
47 "INTERMITTENT STREAM" MEANS A STREAM AS DEFINED IN COMAR 26.23.01.01, AND  
48 CONFIRMED THROUGH FIELD VERIFICATION, OR THOSE AREAS THAT ARE SURFACE  
49 WATERS, CONTAINED WITHIN A DEFINED CHANNEL OR BED, THAT FLOW AT LEAST  
50 ONCE PER YEAR. HYDRAULICALLY SORTED SEDIMENT, REMOVAL OF VEGETATIVE  
51 LITTER, OR LOOSELY ROOTED VEGETATION THROUGH THE ACTION OF MOVING  
52 WATER INDICATING A DEFINED CHANNEL OR BED.

53  
54 "LANDSCAPING PLAN" MEANS A PLAN WHICH:

1 "NET TRACT AREAS" MEANS:

- 2 A. EXCLUDING AGRICULTURE AND RESOURCE AREAS, THE TOTAL AREA  
3 OF A SITE, INCLUDING BOTH FORESTED AND NONFORESTED AREAS,  
4 TO THE NEAREST 1/10 ACRE, REDUCED BY THAT AREA WHERE  
5 FOREST CLEARING IS RESTRICTED BY THIS CHAPTER OR ANOTHER  
6 PROGRAM;  
7 B. IN AGRICULTURE AND RESOURCE AREAS, THE PART OF THE TOTAL  
8 TRACT FOR WHICH LAND USE WILL BE CHANGED OR WILL NO  
9 LONGER BE USED FOR PRIMARILY AGRICULTURAL ACTIVITIES,  
10 REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED  
11 IN THIS CHAPTER OR ANOTHER PROGRAM;  
12 C. FOR A LINEAR PROJECT, THE AREA OF A RIGHT-OF-WAY WIDTH, NEW  
13 ACCESS ROADS, AND STORAGE, OR THE LIMITS OF DISTURBANCE AS  
14 SHOWN ON AN APPLICATION FOR SEDIMENT AND EROSION  
15 CONTROL APPROVAL OR IN A CAPITAL IMPROVEMENT PROGRAM  
16 PROJECT DESCRIPTION.  
17

18 NON-TIDAL WETLANDS.

- 19 A. "NON-TIDAL WETLANDS" MEANS AN AREA THAT:  
20 1. SURFACE OR GROUNDWATER INUNDATES OR SATURATES  
21 AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT,  
22 AND UNDER NORMAL CONDITIONS DOES SUPPORT, A  
23 PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE  
24 IN SATURATED SOIL CONDITIONS, COMMONLY KNOWN AS  
25 HYDROPHYTIC VEGETATION; OR  
26 2. IS CONSIDERED A NON-TIDAL WETLAND IN ACCORDANCE  
27 WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S 1989  
28 "FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING  
29 JURISDICTIONAL WETLAND."  
30 B. "NON-TIDAL WETLANDS" DOES NOT INCLUDE TIDAL WETLANDS  
31 REGULATED PURSUANT TO THE NATURAL RESOURCES ARTICLE,  
32 TITLE 9.  
33

34 "OFF-SITE" MEANS OUTSIDE OF THE LIMITS OF THE AREA A TRACT OF LAND  
35 ENCOMPASSES.

36  
37 "ON-SITE" MEANS WITHIN THE LIMITS OF THE AREA A TRACT OF LAND ENCOMPASSES,  
38 INCLUDING AN AREA CLASSIFIED AS A 100-YEAR FLOODPLAIN.  
39

40 "100-YEAR FLOOD" MEANS A FLOOD WHICH HAS A 1% CHANCE OF BEING EQUALED OR  
41 EXCEEDED IN ANY GIVEN YEAR. EXCEPT FOR CLASS III WATERS (NATURAL TROUT  
42 STREAMS), A BODY OF WATER WITH A WATERSHED LESS THAN 400 ACRES IS  
43 EXCLUDED.  
44

45 "100-YEAR FLOODPLAIN" MEANS AN AREA ALONG, OR ADJACENT TO, A STREAM OR  
46 BODY OF WATER, EXCEPT TIDAL WATERS, THAT IS CAPABLE OF STORING OR  
47 CONVEYING FLOODWATERS DURING A 100-YEAR FREQUENCY STORM EVENT, OR A  
48 100-YEAR FLOOD.  
49

50 "PERENNIAL STREAM" MEANS A STREAM CONTAINING SURFACE WATER THROUGHOUT  
51 AN AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST RECENT 7.5 MINUTE  
52 TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED

- 1 C. TREE CLEARING, CUTTING OR DESTRUCTION;
- 2 D. A LOCAL AGENCY'S PROJECT PLAN;
- 3 E. PLANNED DEVELOPMENT; OR
- 4 F. AN ACTIVITY WHERE A SEDIMENT CONTROL PERMIT IS REQUIRED.

5  
6 "RETENTION" MEANS THE DELIBERATE HOLDING AND PROTECTION OF EXISTING  
7 TREES, SHRUBS, OR PLANTS ON THE SITE ACCORDING TO ESTABLISHED  
8 STANDARDS AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.

9  
10 "SEDIMENT CONTROL PLAN" MEANS A PLAN FOR SEDIMENT CONTROL PURSUANT TO  
11 CHAPTER 17.08 OF THE CITY CODE.

12  
13 "SEEDLING" MEANS AN UN-BRANCHED WOODY PLANT, LESS THAN 24 INCHES IN  
14 HEIGHT AND HAVING A DIAMETER OF LESS THAN ½ INCH MEASURED AT TWO INCHES  
15 ABOVE THE ROOT COLLAR.

16  
17 "SELECTIVE CLEARING" MEANS THE CAREFUL AND PLANNED REMOVAL OF TREES,  
18 SHRUBS, AND PLANTS USING SPECIFIC STANDARDS AND PROTECTION MEASURES  
19 PURSUANT TO AN APPROVED FOREST CONSERVATION PLAN.

20  
21 "SIGNIFICANT TREE" MEANS A CHAMPION TREE, A SPECIMEN TREE, OR A TREE  
22 LOCATED WITHIN A FOREST WITH A DIAMETER OF 24 INCHES OR MORE, A TREE  
23 LOCATED OUTSIDE OF A FOREST WITH A DIAMETER OF 12 INCHES OR MORE, OR A  
24 TREE LOCATED WITHIN 25 FEET OF THE LIMITS OF DISTURBANCE WITH A DIAMETER OF  
25 SIX INCHES OR MORE.

26  
27 "STEEP SLOPE" MEANS A SLOPE OF 15% OR GREATER.

28  
29 "STREAM BUFFER" MEANS ALL LANDS LYING WITHIN 100 FEET, MEASURED FROM THE  
30 TOP OF EACH NORMAL BANK OF A PERENNIAL OR INTERMITTENT STREAM. THE  
31 BUFFER MAY BE EXPANDED BEYOND THE 100 FOOT MINIMUM IF THE DEPARTMENT  
32 DETERMINES SITE CONDITIONS WARRANT AN EXPANSION TO PRESERVE NATURAL  
33 RESOURCES INCLUDING, BUT NOT LIMITED TO, STEEP SLOPES, ERODIBLE SOILS,  
34 WETLANDS, OR OTHER SENSITIVE AREAS.

35  
36 "SUBDIVISION" MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR MORE LOTS OR  
37 PARCELS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF TRANSFER OF  
38 OWNERSHIP, SALE, LEASE, OR DEVELOPMENT.

39  
40 "TRACT" MEANS PROPERTY OR UNIT OF LAND SUBJECT TO AN APPLICATION FOR A  
41 GRADING OR SEDIMENT CONTROL PERMIT, SUBDIVISION APPROVAL, PROJECT PLAN  
42 APPROVAL, OR SUBMITTAL OF FOREST STAND DELINEATION, PRELIMINARY FOREST  
43 CONSERVATION PLAN OR FINAL FOREST CONSERVATION PLAN, OR OTHER AREAS IN  
44 ORDER TO COMPLY WITH THIS CHAPTER.

45  
46 "TRACT FOR A PLANNED DEVELOPMENT" MEANS THE ENTIRE PROPERTY SUBJECT TO  
47 A PLANNED DEVELOPMENT.

48  
49 "TREE" MEANS A LARGE, BRANCHED WOODY PLANT HAVING ONE OR SEVERAL SELF-  
50 SUPPORTING STEMS OR TRUNKS THAT REACH A HEIGHT OF AT LEAST 20 FEET AT  
51 MATURITY.

52  
53 "VARIANCE" IS AN EXEMPTION TO ONE OR MORE REQUIREMENTS IN THIS CHAPTER  
54 WHEN THE REQUIREMENT OR REQUIREMENTS WOULD RESULT IN UNWARRANTED

- 1 LANDOWNER'S AGENT WILL PRACTICE AGRICULTURE ON THE
- 2 SPECIFIC PORTION OF THE PROPERTY FOR FIVE YEARS FROM
- 3 THE DATE OF THE DECLARATION OF INTENT, AND A SKETCH
- 4 OF THE PROPERTY THAT SHOWS THE AREAS TO BE CLEARED;
- 5 3. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-
- 6 WAY LICENSED PURSUANT TO PUBLIC UTILITY ARTICLE, §§7-
- 7 207 AND 7-208 OR 7-205, OR LAND FOR ELECTRIC GENERATING
- 8 STATIONS LICENSED PURSUANT TO PUBLIC UTILITY ARTICLE,
- 9 §§7-207 AND 7-208 OR 7-205, IF REQUIRED CERTIFICATES OF
- 10 PUBLIC CONVENIENCE AND NECESSITY HAVE BEEN ISSUED IN
- 11 ACCORDANCE WITH THE NATURAL RESOURCES ARTICLE, §5-
- 12 1603(F), AND CUTTING OR CLEARING OF THE FOREST IS
- 13 CONDUCTED TO MINIMIZE THE LOSS OF FOREST;
- 14 4. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC
- 15 UTILITY RIGHTS-OF-WAY LICENSED PURSUANT TO PUBLIC
- 16 UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205;
- 17 5. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF A PUBLIC
- 18 UTILITY RIGHT-OF-WAY IF THE RIGHT-OF-WAY EXISTED
- 19 BEFORE THE EFFECTIVE DATE OF THIS CHAPTER, OR
- 20 INITIAL CONSTRUCTION OF THE RIGHT-OF-WAY WAS
- 21 APPROVED PURSUANT TO THIS CHAPTER;
- 22 6. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN
- 23 EXISTING SINGLE LOT OF RECORD AT THE TIME OF
- 24 APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE
- 25 EXEMPTED ELSEWHERE IN THIS CHAPTER, IF THE ACTIVITY
- 26 DOES NOT RESULT IN THE CUMULATIVE CUTTING, CLEARING,
- 27 OR GRADING OF MORE THAN 10,000 SQUARE FEET OF
- 28 FOREST, OR DOES NOT RESULT IN THE CUTTING, CLEARING,
- 29 OR GRADING OF A FOREST THAT IS SUBJECT TO THE
- 30 REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION
- 31 PLAN APPROVED PURSUANT TO THIS CHAPTER;
- 32 7. AN ACTIVITY REQUIRED FOR THE PURPOSE OF CONSTRUCTING A
- 33 DWELLING UNIT INTENDED FOR THE OWNER'S USE, OR A
- 34 CHILD OF THE OWNER, IF THE ACTIVITY DOES NOT RESULT IN
- 35 CUTTING, CLEARING, OR GRADING OF MORE THAN 10,000
- 36 SQUARE FEET OF FOREST;
- 37 8. A PRELIMINARY PLAN OF SUBDIVISION OR A GRADING OR
- 38 SEDIMENT CONTROL PLAN APPROVED BEFORE JULY 1, 1991;
- 39 9. A PLANNED DEVELOPMENT THAT, BY DECEMBER 31, 1991, HAS
- 40 MET ALL REQUIREMENTS FOR PLANNED DEVELOPMENT
- 41 APPROVAL AND HAS OBTAINED INITIAL DEVELOPMENT PLAN
- 42 APPROVAL FROM THE DEPARTMENT;
- 43 10. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY,
- 44 LEASEHOLD, OR OTHER LEGAL OR EQUITABLE INTEREST,
- 45 INCLUDING A TRANSFER OF TITLE, OF A PORTION OF A LOT
- 46 OR PARCEL, IF THE TRANSFER DOES NOT INVOLVE A CHANGE
- 47 IN LAND USE, OR NEW DEVELOPMENT OR REDEVELOPMENT,
- 48 WITH ASSOCIATED LAND-DISTURBING ACTIVITIES.
- 49 11. AREAS GOVERNED PURSUANT TO THE CHESAPEAKE BAY
- 50 CRITICAL AREA PROTECTION LAW, THE NATURAL
- 51 RESOURCES ARTICLE, §§8-1801--8-1817, INCLUDING THOSE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

**17.13.030 – LOCAL AGENCY APPLICATION**

IF A LOCAL AGENCY OR PERSON USING STATE FUNDS SUBMITS AN APPLICATION TO CONDUCT AN ACTIVITY GOVERNED BY THIS CHAPTER, THE PROVISIONS OF COMAR 08.19.04.01D-G SHALL ALSO BE FOLLOWED.

**17.13.035 - FOREST STAND DELINEATION CRITERIA**

A. AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION AND NATURAL RESOURCES INVENTORY, WHEN REQUIRED, PRIOR TO THE INITIAL STAGES OF A DEVELOPMENT PLAN APPROVAL PROCEDURE PURSUANT TO CHAPTER 21.10 OF THE CITY CODE AND BEFORE THE APPLICANT'S SUBMISSION TO THE DEPARTMENT OF A SITE DESIGN PLAN, GRADING, OR SEDIMENT CONTROL PERMIT APPLICATION FOR THE LAND PROPOSED TO BE DEVELOPED.

1. UPON AN APPLICANT'S SUBMITTAL, THE DEPARTMENT, NO LATER THAN THREE BUSINESS DAYS AFTER RECEIPT, SHALL POST THE FOREST STAND DELINEATION ON THE DEPARTMENT'S WEBSITE FOR AT LEAST 30 BUSINESS DAYS AND PROVIDE DIRECTIONS ON HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS ON THE FOREST STAND DELINEATION TO THE DEPARTMENT. THE WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY OF THE APPLICANT'S AMENDMENTS OR CHANGES TO THE FOREST STAND DELINEATION.
2. THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND OTHER INFORMATION RECEIVED ON THE FOREST STAND DELINEATION AFTER THE 30 BUSINESS DAY WEBSITE POSTING TIME PERIOD FOR PUBLIC COMMENTS HAS ENDED. DEPARTMENT STAFF SHALL BE GIVEN AT LEAST 5 BUSINESS DAYS TO CONSIDER AND INCORPORATE THE PUBLIC COMMENTS RECEIVED INTO THEIR RECOMMENDATIONS.

B. A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A., SHALL PREPARE THE FOREST STAND DELINEATION. ONLY A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A. SHALL CONDUCT THE DEPARTMENT'S REVIEW OF THE FOREST STAND DELINEATION.

C. AT THE DISCRETION OF THE DEPARTMENT, A CERTIFIED WETLAND DELINEATOR CHOSEN AND HIRED BY THE DEPARTMENT, SHALL PREPARE THE WETLAND DELINEATION COMPONENT OF THE FOREST STAND DELINEATION. PAYMENT FOR THE COST OF THE DELINEATION SERVICES SHALL BE PAID BY THE APPLICANT IN ADVANCE. A FOREST STAND DELINEATION SHALL NOT BE CONSIDERED COMPLETE UNLESS THE WETLAND DELINEATION IS INCLUDED. THE DEPARTMENT SHALL HAVE A PERSON QUALIFIED TO UNDERTAKE A WETLAND DELINEATION REVIEW THE WETLAND DELINEATION COMPONENT OF THE FOREST STAND DELINEATION. THE DEPARTMENT SHALL NOT BE REQUIRED TO CERTIFY A FOREST STAND DELINEATION AS COMPLETE AND CORRECT UNTIL IT IS SATISFIED THAT THE WETLAND DELINEATION COMPONENT HAS BEEN

- 1 EFFECT WITHIN THIS 10 BUSINESS DAY PERIOD OR EARLIER IF FEASIBLE  
2 AND SPECIFY THE ADDITIONAL DOCUMENTATION THE DEPARTMENT  
3 REQUIRES IN ORDER TO CONSIDER SUCH CERTIFICATION, AND THE  
4 DEPARTMENT SHALL HAVE 15 BUSINESS DAYS AFTER RECEIPT OF SUCH  
5 DOCUMENTATION TO DETERMINE WHETHER TO CERTIFY AS COMPLETE  
6 AND CORRECT.
- 7 G. ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND ITS STAFF SHALL  
8 BE MADE AVAILABLE ONLINE IN THE CITY'S PERMIT TRACKING DATABASE.  
9
- 10 H. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY ALLOW  
11 ITSELF 10 ADDITIONAL BUSINESS DAYS TO COMPLETE ITS REVIEW OF THE  
12 FOREST STAND DELINEATION. THE DEPARTMENT SHALL GIVE WRITTEN  
13 NOTIFICATION TO THE APPLICANT TO THIS EFFECT AS SOON AS FEASIBLE,  
14 BUT NO LATER THAN THE LAST DAY ALLOWABLE FOR ITS REVIEW.  
15
- 16 I. ONLY WITH THE APPROVAL OF THE CITY ENVIRONMENTALIST DOES THE  
17 DEPARTMENT HAVE THE AUTHORITY TO CERTIFY A FOREST STAND  
18 DELINEATION AS COMPLETE AND CORRECT OR TO SUSPEND OR REVOKE A  
19 CERTIFICATION AS COMPLETE OR CORRECT.  
20
- 21 J. A FOREST STAND DELINEATION MAY REMAIN IN EFFECT FOR A PERIOD OF  
22 TIME NOT TO EXCEED 5 YEARS FROM THE DATE IT IS CERTIFIED BY THE  
23 DEPARTMENT AS COMPLETE AND CORRECT.  
24
- 25 K. THE DEPARTMENT MAY SUSPEND OR REVOKE A FOREST STAND  
26 DELINEATION THAT THE DEPARTMENT HAS CERTIFIED AS COMPLETE AND  
27 CORRECT IF IT FINDS THAT:  
28 1. THE APPLICANT OBTAINED CERTIFICATION OF THE FOREST STAND  
29 DELINEATION THROUGH FRAUD, MISREPRESENTATION, A FALSE OR  
30 MISLEADING STATEMENT, OR OMISSION OF A RELEVANT OR MATERIAL  
31 FACTOR;  
32 2. CHANGES IN THE CONDITION OF THE SITE NECESSITATE THE  
33 PREPARATION OF A NEW OR AMENDED FOREST STAND DELINEATION;  
34 OR  
35 3. THERE HAVE BEEN CHANGES TO LAWS OR REGULATIONS THAT IMPACT  
36 THE DEPARTMENT'S REVIEW OF THE FOREST STAND DELINEATION.  
37
- 38 L. THE DEPARTMENT SHALL NOTIFY THE APPLICANT AND PROVIDE THE  
39 APPLICANT WITH AN OPPORTUNITY FOR A HEARING BEFORE THE  
40 DEPARTMENT DIRECTOR OR HIS OR HER DESIGNEE BEFORE SUSPENDING  
41 OR REVOKING THE APPROVAL OF A FOREST STAND DELINEATION.  
42
- 43 M. THE DECISION OF THE DEPARTMENT DIRECTOR THAT A FOREST STAND  
44 DELINEATION IS COMPLETE AND CORRECT, OR THAT IT IS NOT COMPLETE  
45 AND CORRECT, IS NOT APPEALABLE TO ANY CITY ADMINISTRATIVE BODY  
46 OR TO ANY COURT, OR IN ANY OTHER MANNER, EITHER BY THE APPLICANT  
47 OR ANY OTHER PERSON OR ENTITY.  
48  
49

50 **17.13.040 - FOREST CONSERVATION PLAN**

51 **A. GENERAL PROVISIONS**

1 THE PLANNING COMMISSION. A PRELIMINARY FOREST  
2 CONSERVATION PLAN THAT HAS BEEN APPROVED BY THE CITY  
3 ENVIRONMENTALIST SHALL BE USED BY THE APPLICANT TO  
4 PREPARE A SUBMISSION TO THE PLANNING COMMISSION.  
5

6 3. A PRELIMINARY FOREST CONSERVATION PLAN SHALL INCLUDE:

- 7 A. THE PRELIMINARY PLAN OF SUBDIVISION OR THE PROPOSED PROJECT  
8 PLAN DURING SITE DESIGN REVIEW PRIOR TO THE APPLICANT'S  
9 SUBMISSION TO THE PLANNING COMMISSION;  
10 B. THE SITE'S FOREST STAND DELINEATION THAT THE DEPARTMENT HAS  
11 CERTIFIED AS COMPLETE AND CORRECT;  
12 C. A TABLE THAT LISTS THE PROPOSED VALUES OF THE FOLLOWING, IN  
13 SQUARE FEET:  
14 I. NET TRACT AREA;  
15 II. AREA OF FOREST CONSERVATION REQUIRED; AND  
16 III. AREA OF FOREST CONSERVATION THAT THE APPLICANT  
17 PROPOSES TO PROVIDE, INCLUDING BOTH ON-SITE AND OFF-SITE  
18 AREA.  
19 D. A GRAPHIC DEMONSTRATION OF THE FOREST CONSERVATION AREAS  
20 PROVIDED ON THE SITE DRAWN TO SCALE, WHICH SHALL ILLUSTRATE  
21 AREAS WHERE THE APPLICANT PROPOSES RETENTION OF EXISTING  
22 FOREST, OR AFFORESTATION OR REFORESTATION;  
23 E. AN EXPLANATION OF HOW THE REQUIREMENTS OF SECTION 17.13.040  
24 OF THE CITY CODE HAVE BEEN MET;  
25 F. A PROPOSED AFFORESTATION OR REFORESTATION PLAN, WHERE  
26 APPROPRIATE;  
27 G. A PROPOSED CONSTRUCTION TIMETABLE LISTING THE SEQUENCE OF  
28 FOREST CONSERVATION PROCEDURES;  
29 H. AN ILLUSTRATION OF THE PROPOSED LIMITS OF DISTURBANCE;  
30 I. AN ILLUSTRATION OF THE PROPOSED STOCKPILE AREAS;  
31 J. A PROPOSED TWO YEAR MAINTENANCE AGREEMENT THAT EXPLAINS  
32 HOW AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION  
33 SHALL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY  
34 ESTABLISHMENT;  
35 K. A STATEMENT OF HOW THE PROJECT WILL FURTHER THE CITY'S TREE  
36 CANOPY COVERAGE GOAL, SET IN CONJUNCTION WITH THE MARYLAND  
37 DEPARTMENT OF NATURAL RESOURCES, TO INCREASE THE CITY'S  
38 TREE CANOPY COVERAGE TO 50% BY 2036 FROM THE 2006  
39 DETERMINATION OF THE MARYLAND DEPARTMENT OF NATURAL  
40 RESOURCES THAT THE CITY'S TREE CANOPY HAD 41% COVERAGE; AND  
41 L. ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS  
42 NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS CHAPTER  
43 AND THE FOREST CONSERVATION ACT TECHNICAL MANUAL.  
44

- 45 4. THE APPLICANT SHALL PROVIDE WRITTEN JUSTIFICATION FOR ANY  
46 PROPOSED DISTURBANCE OF PRIORITY RETENTION AREAS,  
47 INCLUDING REASONS WHY SUCH PRIORITY RETENTION AREAS  
48 CANNOT BE RETAINED AND HOW THE APPLICANT SHALL REPLACE  
49 PROPOSED DISTURBED PRIORITY RETENTION AREAS THROUGH  
50 AFFORESTATION AND REFORESTATION, IN COMPLIANCE WITH THE  
51 REQUIREMENTS OF THIS CHAPTER.



1 OTHER INFORMATION RECEIVED ON THE PRELIMINARY FOREST  
2 CONSERVATION PLAN, AND NOTIFY THE APPLICANT IN WRITING VIA  
3 EMAIL OR REGULAR MAIL WHETHER THE DEPARTMENT HAS  
4 APPROVED THE PRELIMINARY FOREST CONSERVATION PLAN. IF THE  
5 DEPARTMENT DETERMINES THAT ADDITIONAL DOCUMENTATION IS  
6 REQUIRED FROM THE APPLICANT IN ORDER TO CONSIDER  
7 APPROVAL, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN  
8 WRITING VIA EMAIL OR REGULAR MAIL TO THIS EFFECT WITHIN SUCH  
9 45 BUSINESS DAY PERIOD AND SPECIFY THE ADDITIONAL  
10 DOCUMENTATION THE DEPARTMENT REQUIRES IN ORDER TO  
11 CONSIDER APPROVAL, AND THE DEPARTMENT SHALL HAVE 45  
12 CALENDAR DAYS AFTER RECEIPT OF SUCH DOCUMENTATION TO  
13 DETERMINE WHETHER TO APPROVE, DENY, OR REQUIRE REVISIONS  
14 TO THE PRELIMINARY FOREST CONSERVATION PLAN.  
15

16 11. AT THE DISCRETION OF DIRECTOR, AN APPLICANT SHALL BE  
17 REQUIRED TO ATTEND COMMUNITY OUTREACH MEETINGS TO  
18 DISCUSS THE PROPOSED DEVELOPMENT PROJECT. IF COMMUNITY  
19 OUTREACH MEETINGS ARE REQUIRED, THE FOREST CONSERVATION  
20 PLAN SHALL NOT BE CONSIDERED FINAL UNLESS MEETINGS ARE  
21 HELD AND COMPLETED. THE DIRECTOR SHALL DETERMINE THE  
22 NUMBER OF MEETINGS TO BE HELD AND SHALL REQUIRE THE  
23 APPLICANT TO PROVIDE ADEQUATE NOTICE OF THE PUBLIC  
24 MEETING BY POSTING THE PROPERTY AT LEAST FIFTEEN (15) DAYS  
25 IN ADVANCE OF EACH PUBLIC MEETING AND BY PUBLICATION IN THE  
26 LOCAL NEWSPAPER ONE TIME AT LEAST FIFTEEN (15) DAYS IN  
27 ADVANCE OF EACH PUBLIC MEETING.  
28

29 12. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY  
30 ALLOW ITSELF 10 ADDITIONAL BUSINESS DAYS TO COMPLETE THE  
31 REVIEW OF A PRELIMINARY FOREST CONSERVATION PLAN. THE  
32 DEPARTMENT SHALL GIVE WRITTEN NOTIFICATION TO THE  
33 APPLICANT TO THIS EFFECT WITHIN THE ORIGINAL 45 DAY  
34 CALENDAR PERIOD TO COMPLETE REVIEW.  
35

36 13. ONLY WITH THE APPROVAL OF THE CITY ENVIRONMENTALIST DOES  
37 THE DEPARTMENT DIRECTOR HAVE THE AUTHORITY TO APPROVE,  
38 SUSPEND OR REVOKE A PRELIMINARY FOREST CONSERVATION  
39 PLAN.  
40

41 14. THE DEPARTMENT SHALL APPROVE A PRELIMINARY FOREST  
42 CONSERVATION PLAN IF THE DEPARTMENT FINDS THAT IT COMPLIES  
43 WITH THE REQUIREMENTS OF THIS CHAPTER.  
44

45 15. ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND ITS STAFF  
46 SHALL BE MADE AVAILABLE ONLINE IN THE CITY'S PERMIT TRACKING  
47 SOFTWARE.  
48

49 16. A PRELIMINARY FOREST CONSERVATION PLAN THAT THE  
50 DEPARTMENT HAS APPROVED SHALL REMAIN IN EFFECT, AND SHALL  
51 SERVE AS THE BASIS FOR THE FINAL FOREST CONSERVATION PLAN

- 1 FOREST MANAGEMENT PRACTICES THAT ARE USED TO PRESERVE  
2 FOREST, AND DEFINES RESTRICTIONS ON DESIGNATED AREAS OF  
3 FOREST CONSERVATION FOR ACTIVITIES SUCH AS RECREATION;
- 4 F. ADDRESS THE SUBSTANTIVE ELEMENTS OF SECTION 17.13:040 B. OF  
5 THIS CHAPTER THAT THE DEPARTMENT DEEMS NECESSARY AS  
6 ELEMENTS OF THE FINAL FOREST CONSERVATION PLAN;
- 7 G. INCLUDE ANY OTHER ADDITIONAL INFORMATION AS THE DEPARTMENT  
8 DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.  
9
- 10 5. THE APPLICANT MAY MODIFY THE FINAL FOREST CONSERVATION PLAN  
11 THROUGHOUT THE REVIEW PROCESS, AS LONG AS IT HAS NOT  
12 RECEIVED FINAL APPROVAL.  
13
- 14 6. UPON AN APPLICANT'S SUBMITTAL, THE DEPARTMENT SHALL, NO LATER  
15 THAN THREE BUSINESS DAYS AFTER RECEIPT, POST THE FINAL FOREST  
16 CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE FOR AT LEAST  
17 30 BUSINESS DAYS AND PROVIDE DIRECTIONS ON HOW THE PUBLIC  
18 MAY SEND OR DELIVER WRITTEN COMMENTS ON THE FINAL FOREST  
19 CONSERVATION PLAN TO THE DEPARTMENT. THE WEBSITE POSTING  
20 REQUIREMENT SHALL APPLY TO ANY OF THE APPLICANT'S  
21 AMENDMENTS OR CHANGES TO THE FINAL FOREST CONSERVATION  
22 PLAN.  
23
- 24 7. THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS,  
25 TESTIMONY, AND OTHER INFORMATION RECEIVED ON THE FINAL  
26 FOREST CONSERVATION PLAN AFTER THE 30 BUSINESS DAY WEBSITE  
27 POSTING TIME PERIOD FOR PUBLIC COMMENTS HAS ENDED.  
28 DEPARTMENT STAFF SHALL BE GIVEN AT LEAST 5 BUSINESS DAYS TO  
29 CONSIDER AND INCORPORATE THE PUBLIC COMMENTS RECEIVED.  
30
- 31 8. IF A PERSON SUBMITS A WRITTEN REQUEST FOR A PUBLIC HEARING  
32 WITHIN 20 BUSINESS DAYS AFTER THE POSTING THE FINAL FOREST  
33 CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE, THEN THE  
34 DEPARTMENT SHALL SCHEDULE A PUBLIC HEARING ON THE FINAL  
35 FOREST CONSERVATION PLAN. THE DEPARTMENT SHALL SCHEDULE  
36 THE PUBLIC HEARING WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF  
37 SUCH REQUEST, AND THE PUBLIC HEARING SHALL OCCUR NO SOONER  
38 THAN 15 AND NO LATER THAN 30 DAYS AFTER RECEIPT OF THE  
39 WRITTEN REQUEST. THE DEPARTMENT SHALL POST NOTICE OF THE  
40 DATE OF THE PUBLIC HEARING ON THE DEPARTMENT'S WEBSITE AT  
41 LEAST 15 DAYS IN ADVANCE OF THE PUBLIC HEARING, AND PRESIDE AT  
42 AND MANAGE THE PUBLIC HEARING. ANY MEMBER OF THE PUBLIC MAY  
43 GIVE TESTIMONY AT THE PUBLIC HEARING. THE CITY SHALL RECORD  
44 THIS HEARING AND MAKE IT AVAILABLE TO THE PUBLIC AS SOON AS  
45 FEASIBLE.  
46
- 47 9. WITHIN 45 BUSINESS DAYS AFTER THE DEPARTMENT'S WEBSITE  
48 POSTING FOR PUBLIC COMMENT HAS ENDED OR THE COMPLETION OF  
49 THE PUBLIC HEARING, WHICHEVER IS LATER, THE DEPARTMENT SHALL  
50 CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND ANY OTHER  
51 INFORMATION RECEIVED ON THE FINAL FOREST CONSERVATION PLAN

1 15. IF THE DIRECTOR OF THE DEPARTMENT APPROVES OR DENIES OR  
2 SUSPENDS OR REVOKES AN APPLICANT'S FINAL FOREST  
3 CONSERVATION PLAN, SUCH APPROVAL OR DENIAL SHALL BE DEEMED  
4 A FINAL APPEALABLE DEPARTMENTAL DETERMINATION.  
5

6 16. ANY PERSON AGGRIEVED OF A DECISION OF THE DEPARTMENT  
7 DIRECTOR TO APPROVE OR DENY OR SUSPEND OR REVOKE A FINAL  
8 FOREST CONSERVATION PLAN MAY APPEAL THE DECISION TO THE  
9 BUILDING BOARD OF APPEALS. SUCH APPEAL SHALL BE NOTED TO,  
10 AND FILED WITH, THE DEPARTMENT WITHIN 30 CALENDAR DAYS AFTER  
11 THE DEPARTMENT'S DECISION.  
12

13 17. UPON THE FILING OF AN APPEAL, THE BUILDING BOARD OF APPEALS  
14 SHALL HOLD A PUBLIC HEARING AT WHICH THE APPLICANT, AGGRIEVED  
15 PERSONS, THE PUBLIC, AND REPRESENTATIVES FROM THE  
16 DEPARTMENT SHALL HAVE THE OPPORTUNITY TO PARTICIPATE.  
17

18 18. ANY DECISION OF THE BUILDING BOARD OF APPEALS UPON AN APPEAL  
19 NOTED AND FILED PURSUANT TO THIS CHAPTER IS APPEALABLE TO THE  
20 CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN ACCORDANCE WITH  
21 THE MARYLAND RULES OF PROCEDURE.  
22

23 E. VIOLATIONS

24 1. THE DEPARTMENT OR CITY ENVIRONMENTALIST MAY ISSUE A STOP  
25 WORK ORDER, AT THE DEPARTMENT'S OR CITY ENVIRONMENTALIST'S  
26 SOLE DISCRETION, TO A PERSON WHO HAS VIOLATED THIS CHAPTER,  
27 OR A VIOLATION OF A REGULATION, ORDER, MAINTENANCE  
28 AGREEMENT, OR A FINAL FOREST CONSERVATION PLAN THAT THE  
29 DEPARTMENT HAS APPROVED.  
30

31 **17.13.045 – RETENTION.**

32 A. THE PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL GIVE  
33 PRIORITY CONSIDERATION TO THE RETENTION OF EXISTING FOREST  
34 COVER AND INDIVIDUAL SIGNIFICANT TREES AND MINIMIZE THE NEED FOR  
35 REFORESTATION AND TREE REPLACEMENT. EXISTING FOREST COVER AND  
36 INDIVIDUAL TREES SHALL BE RETAINED UNLESS THE APPLICANT HAS  
37 DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT  
38 REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE  
39 PLAN CANNOT REASONABLY BE ALTERED.  
40

41 B. PRIORITY RETENTION AREAS. EXCEPT AS PROVIDED IN SECTION 17.13.045  
42 C., THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE  
43 CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE  
44 RETAINED, PROTECTED, AND LEFT IN AN UNDISTURBED CONDITION.

- 45 1. TREES, SHRUBS, AND PLANTS LOCATED IN CERTAIN SENSITIVE  
46 AREAS, SUCH AS THE 100-YEAR FLOODPLAIN, STREAMS AND  
47 STREAM BUFFER AREAS, STEEP SLOPES AND THEIR BUFFERS, NON-  
48 TIDAL WETLANDS AND THEIR BUFFERS, AND CRITICAL HABITATS;
- 49 2. CONTIGUOUS FORESTS;
- 50 3. PRIORITY FORESTS AS DEFINED IN THE FOREST CONSERVATION  
51 TECHNICAL MANUAL;

1 UNWILLINGNESS TO ALTER THE PREFERRED SITE DESIGN SHALL  
2 NOT BE CONSIDERED AS VALID REASONS FOR PROPOSING TO  
3 CLEAR PRIORITY TREES.

- 4 3. HOW THE APPLICANT HAS EXHAUSTED ALL APPROPRIATE  
5 TECHNIQUES FOR RETENTION.  
6

7 **17.13.050 – TREE REPLACEMENT, REFORESTATION AND AFFORESTATION.**

8 A. AFTER ALL EFFORTS TO MAXIMIZE FOREST AND TREE PRESERVATION ON-  
9 SITE HAVE BEEN EXHAUSTED, PURSUANT TO SECTION 17.13.045 OF THIS  
10 CHAPTER, THE FINAL FOREST CONSERVATION PLAN SHALL PROVIDE FOR  
11 TREE REPLACEMENT, AFFORESTATION AND REFORESTATION ON-SITE AS  
12 FOLLOWS:  
13

14 B. IF INDIVIDUAL SIGNIFICANT TREES ARE REMOVED, WHETHER WITHIN THE  
15 FOREST OR OUTSIDE THE FOREST, THEN EACH REMOVED TREE SHALL BE  
16 REPLACED AT THE FOLLOWING RATES WITH SIMILAR SPECIES:

SIZE OF SIGNIFICANT TREE REMOVED (INCHES)	MINIMUM 2.5-INCH CALIPER TREE REPLACEMENT (NUMBER OF TREES)
12-18 DIAMETER AT BREAST HEIGHT	3
GREATER THAN 18-23 DIAMETER AT BREAST HEIGHT	4
REPLACEMENT OF A SPECIMEN OR CHAMPION TREE SHALL BE AT AN 8 TO 1 RATE.	

- 17  
18 1. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST 100  
19 SQUARE FEET CLEARED ON THE TRACT AREA:

20 A. REFORESTATION SHALL BE AT THE RATE OF ONE-  
21 QUARTER OF THE FORESTED AREA REMOVED ABOVE THE  
22 FOREST CONSERVATION THRESHOLD ESTABLISHED IN  
23 SECTION 17.13.050 C. OF THIS CHAPTER FOR THE ZONE IN  
24 WHICH THE TRACT IS LOCATED;

25 B. REFORESTATION SHALL BE AT THE RATE OF THREE TIMES  
26 THE FORESTED AREA REMOVED BELOW THE FOREST  
27 CONSERVATION THRESHOLD ESTABLISHED IN SECTION  
28 17.13.050 C. OF THIS CHAPTER FOR THE ZONE IN WHICH THE  
29 TRACT IS LOCATED; AND

30 C. THE FOREST CONSERVATION TECHNICAL MANUAL MAY  
31 PROVIDE FOR A CREDIT AGAINST THE AREA REQUIRED TO BE  
32 REFORESTED FOR THOSE FORESTED AREAS RETAINED  
33 ABOVE THE CONSERVATION THRESHOLD, INDIVIDUAL  
34 SIGNIFICANT TREES RETAINED OUTSIDE OF THE FOREST  
35 RETENTION AREAS WHEN NOT LESS THAN 75% OF THE  
36 CRITICAL ROOT ZONE IS PRESERVED, AND FOR THE NUMBER  
37 OF STREET TREES PLANTED, ALTHOUGH NOT TO EXCEED 25%  
38 OF THE TOTAL REFORESTATION REQUIREMENT.  
39

40 **B. AFFORESTATION.**

- 41 1. AFFORESTATION IS NOT REQUIRED FOR THOSE ACTIVITIES  
42 CONDUCTED:

43 A. ON AN EXISTING SINGLE RECORDED RESIDENTIAL LOT OF  
44 ANY SIZE, PROVIDED THAT THE LOT IS NOT SUBDIVIDED AND

HIGH DENSITY RESIDENTIAL AREAS	25%	20%
MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS	20%	15%
COMMERCIAL AND INDUSTRIAL USE AREAS	20%	15%

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39

D. THE AFFORESTATION LEVEL SHALL BE THE MINIMUM AMOUNT OF TREE COVER TO BE PROVIDED ON-SITE, EXCEPT IN THE MIXED USE AND COMMERCIAL AND INDUSTRIAL USE AREAS, WHERE THE MINIMUM TREE COVER SHALL BE 10% OF THE TRACT AREA. REPLACEMENT TREES, REFORESTATION, AFFORESTATION AND EXISTING TREES CAN BE USED TO SATISFY TREE COVER REQUIREMENTS. THE APPLICANT SHALL CALCULATE THE TREE COVER REQUIREMENTS AND SHALL INCLUDE SUCH REQUIREMENTS ON THE FOREST CONSERVATION PLAN.

E. THE FOREST CONSERVATION TECHNICAL MANUAL MAY PROVIDE FOR IMPLEMENTATION OF TREE REPLACEMENT, REFORESTATION, AND AFFORESTATION REQUIREMENTS IN STAGES BASED ON THE PHASES OF DEVELOPMENT ACTIVITY. THE APPROVED FOREST CONSERVATION PLAN SHALL SPECIFY THAT TREE REPLACEMENT, REFORESTATION, AND AFFORESTATION SHALL BE ACCOMPLISHED WITHIN ONE YEAR OR TWO GROWING SEASONS AFTER COMPLETION OF THE DEVELOPMENT PROJECT.

**17.13.055 – PREFERRED SEQUENCE AND PRIORITIES FOR TREE REPLACEMENT, REFORESTATION AND AFFORESTATION.**

A. TREE REPLACEMENT, REFORESTATION AND AFFORESTATION, SHALL BE PROVIDED FOR IN THE FOLLOWING PREFERRED SEQUENCE, WHEN POSSIBLE:

1. SELECTIVE CLEARING AND SUPPLEMENTAL PLANTING ON-SITE;
2. ON-SITE PLANTING USING TRANSPLANTED OR NURSERY STOCK THAT IS GREATER THAN OR EQUAL TO ONE INCH CALIPER; AND
3. LANDSCAPING OF AREAS ON-SITE UNDER AN APPROVED LANDSCAPING PLAN.

B. THE FOLLOWING ARE CONSIDERED A PRIORITY FOR REFORESTATION AND AFFORESTATION, AND SHALL BE EMPLOYED IN THE FOLLOWING PREFERRED SEQUENCE:

1. ESTABLISHMENT OR ENHANCEMENT STREAM BUFFER AREAS;
2. ESTABLISHMENT OR ENHANCEMENT FORESTED AREAS ON 100-YEAR FLOODPLAINS;
3. ESTABLISHMENT OR INCREASE IN CONNECTIONS BETWEEN FORESTED AREAS;

- 1 2. WHY THE DEVELOPMENT CANNOT BE ALTERED TO PROVIDE  
2 ADEQUATE PLANTING SPACE. EXPENSE OR THE APPLICANT'S  
3 UNWILLINGNESS TO ALTER PREFERRED SITE DESIGN SHALL NOT BE  
4 SUFFICIENT JUSTIFICATION FOR NOT ALTERING THE DEVELOPMENT  
5 TO PROVIDE ADEQUATE PLANTING SPACE.
- 6 3. WHY THE APPLICANT CANNOT ALTER THE DEVELOPMENT TO  
7 PROVIDE ADEQUATE PLANTING SPACE. EXPENSE OR THE  
8 APPLICANT'S UNWILLINGNESS TO ALTER THE PREFERRED SITE  
9 DESIGN SHALL NOT BE CONSIDERED AS VALID REASONS FOR NOT  
10 PROVIDING ADEQUATE PLANTING SPACE.
- 11 4. HOW THE MINIMUM TREE COVER REQUIREMENT, AS DETERMINED BY  
12 THE AFFORESTATION THRESHOLD, IS BEING MET ON-SITE.

13  
14 **17.13.065 - PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK.**

15 A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES IN THE  
16 DEPARTMENT'S AND CITY ENVIRONMENTALIST'S SOLE DISCRETION THAT  
17 REQUIREMENTS FOR REFORESTATION OR AFFORESTATION ON-SITE OR  
18 OFF-SITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON MAY  
19 CONTRIBUTE CREDITS FROM A FOREST MITIGATION BANK. A CREDIT IS  
20 REQUIRED FOR EACH TENTH OF AN ACRE OF AN AREA OF REQUIRED  
21 PLANTING.

22  
23 B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST MITIGATION  
24 BANK WITHIN 90 CALENDAR DAYS AFTER THE DEVELOPMENT PROJECT'S  
25 COMPLETION.

26  
27 **17.13.070 - ESTABLISHING FOREST MITIGATION BANKS.**

28 A. UPON APPROVAL FROM THE CITY ENVIRONMENTALIST, A PERSON MAY  
29 CREATE A FOREST MITIGATION BANK FROM WHICH AN APPLICANT MAY  
30 PURCHASE CREDITS TO MEET THE AFFORESTATION AND REFORESTATION  
31 REQUIREMENTS OF THIS CHAPTER.

32  
33 B. REQUIREMENTS FOR ESTABLISHING A FOREST MITIGATION BANK. THE  
34 OWNER AND/OR OPERATOR OF FOREST MITIGATION BANK SHALL:

- 35 1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE  
36 WITH A FOREST MITIGATION BANK AGREEMENT;
- 37 2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR  
38 COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN  
39 FORESTED IN PERPETUITY. THE DEPARTMENT AND THE MARYLAND  
40 DEPARTMENT OF NATURAL RESOURCES SHALL HAVE THE  
41 AUTHORITY TO ENFORCE THE EASEMENT, DEED RESTRICTIONS, OR  
42 COVENANTS;
- 43 3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES  
44 WHICH ARE CONSISTENT WITH FOREST CONSERVATION SUCH AS  
45 RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A  
46 FOREST CONSERVATION AND MANAGEMENT PROGRAM PURSUANT  
47 TO TAX-PROPERTY ARTICLE, §8-211, OF THE ANNOTATED CODE OF  
48 MARYLAND, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT  
49 PLAN THAT A LICENSED FORESTER HAS PREPARED AND THE  
50 DEPARTMENT HAS APPROVED;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

ITS ASSIGNEES CAN USE TO INSPECT THE FOREST MITIGATION BANK.

3. A COPY OF THE DEED TO THE PROPERTY;
4. A SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;
5. A TITLE REPORT OR OTHER ASSURANCE THAT THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE PROPERTY'S USE AS A FOREST MITIGATION BANK;
6. A DESCRIPTION OF THE SYSTEM THE FOREST MITIGATION BANK OWNER AND/OR OPERATOR WILL USE TO IDENTIFY AND TRACK WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED TO MEET AN APPLICANT'S OFF-SITE AFFORESTATION OR REFORESTATION REQUIREMENTS.

D. THE OWNER AND/OR OPERATOR OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:

1. THE APPROVED REFORESTATION OR AFFORESTATION PLAN;
2. THE APPROVED SYSTEM FOR MARKETING AND TRACKING WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED;
3. AN ACKNOWLEDGEMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL TWO YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED.

**17.13.075 - RECOMMENDED TREE SPECIES**

- A. TREE SPECIES USED FOR AFFORESTATION OR REFORESTATION SHALL BE NATIVE TO THE CITY, WHEN APPROPRIATE, AND SELECTED FROM A LIST OF APPROVED SPECIES THE DEPARTMENT HAS ESTABLISHED.
- B. THE DEPARTMENT SHALL ADOPT A LIST OF TREE SPECIES TO BE USED FOR ANY REQUIRED AFFORESTATION OR REFORESTATION AND INCORPORATE IT INTO THE FOREST CONSERVATION TECHNICAL MANUAL.

**17.13.080 - FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION BONDING.**

- A. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION UNDER THIS CHAPTER SHALL FURNISH FINANCIAL SECURITY IN THE FORM OF A BOND, AN IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY THE DEPARTMENT HAS APPROVED. THE SURETY SHALL:
  1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND THE ASSOCIATED MAINTENANCE AGREEMENT ARE CONDUCTED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST CONSERVATION PLAN;
  2. BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS THE DEPARTMENT HAS DETERMINED, OF AFFORESTATION AND REFORESTATION; AND

- 1 B. AN APPLICANT FOR A VARIANCE SHALL:  
2 1. DESCRIBE HOW THE SPECIFIC CONDITIONS PARTICULAR TO THE  
3 PROPERTY WOULD CAUSE THE UNWARRANTED HARDSHIP;  
4 2. DEMONSTRATE HOW THE PURPOSE OF THE VARIANCE IS NOT  
5 BASED EXCLUSIVELY UPON THE DESIRE TO INCREASE FINANCIAL  
6 GAIN;  
7 3. DESCRIBE HOW THE VARIANCE IS THE MINIMUM VARIANCE  
8 NECESSARY TO AFFORD RELIEF;  
9 4. EXPLAIN HOW ENFORCEMENT OF THIS CHAPTER WOULD DEPRIVE  
10 THE APPLICANT OF RIGHTS OTHERS IN SIMILAR AREAS COMMONLY  
11 ENJOY;  
12 5. DESCRIBE HOW GRANTING A VARIANCE WOULD NOT CONFER ON  
13 THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO  
14 OTHER APPLICANTS;  
15 6. STATE HOW THE VARIANCE REQUEST WOULD NOT BE BASED ON  
16 CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF THE  
17 APPLICANT'S ACTIONS;  
18 7. STATE HOW THE VARIANCE REQUEST DOES NOT ARISE FROM A  
19 CONDITION RELATING TO LAND OR BUILDING USE, EITHER  
20 PERMITTED OR NONCONFORMING, ON A NEIGHBORING PROPERTY;  
21 AND  
22 8. DEMONSTRATE HOW GRANTING A VARIANCE WOULD NOT  
23 ADVERSELY AFFECT WATER QUALITY.

24  
25 C. THE DEPARTMENT, WITH THE CONCURRENCE OF THE CITY  
26 ENVIRONMENTALIST SHALL MAKE FINDINGS THAT THE APPLICANT HAS MET  
27 ALL REQUIREMENTS BEFORE THE DEPARTMENT MAY GRANT A VARIANCE.  
28

29 D. THE DEPARTMENT SHALL GIVE NOTICE OF A VARIANCE REQUEST TO THE  
30 MARYLAND DEPARTMENT OF NATURAL RESOURCES WITHIN 15 DAYS OF  
31 RECEIPT OF AN APPLICANT'S REQUEST FOR A VARIANCE.  
32

33 E. ANY PERSON AGGRIEVED BY ANY DECISION OF THE DEPARTMENT MAY  
34 APPEAL THAT DECISION TO THE CIRCUIT COURT OF ANNE ARUNDEL  
35 COUNTY.  
36

37 F. THE MARYLAND DEPARTMENT OF NATURAL RESOURCES HAS THE RIGHT  
38 AND AUTHORITY TO INITIATE OR INTERVENE IN AN ADMINISTRATIVE,  
39 JUDICIAL, OR OTHER ORIGINAL PROCEEDING OR APPEAL IN THE STATE  
40 CONCERNING AN APPROVAL OF A VARIANCE PURSUANT TO THE NATURAL  
41 RESOURCES ARTICLE, §§5-1601---5-1612, OR THIS CHAPTER.  
42

43  
44 **17.13.095 – ENFORCEMENT.**

45 **A. FEES.**

- 46 1. THE DEPARTMENT IS AUTHORIZED TO ASSESS A PENALTY OF \$0.75  
47 PER SQUARE FOOT OF THE AREA FOUND TO BE IN NONCOMPLIANCE  
48 TO A PERSON FOUND TO BE NOT IN COMPLIANCE WITH THIS  
49 CHAPTER, REGULATIONS ADOPTED PURSUANT TO THIS CHAPTER,  
50 THE FOREST CONSERVATION PLAN, OR THE ASSOCIATED TWO-YEAR  
51 MAINTENANCE AGREEMENT.



- 1 G. THE FOREST MITIGATION BANKS INSPECTED SINCE THE LAST ANNUAL  
2 REPORT;  
3 H. THE NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES OF  
4 ENFORCEMENT ACTIVITIES CONDUCTED;  
5 I. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST  
6 AREAS SHALL BE SUBMITTED IN AN ELECTRONIC GEOGRAPHIC  
7 INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT IF  
8 POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE GIVEN BY  
9 MARYLAND STATE PLANE GRID COORDINATES AND 8 DIGIT SUB-  
10 WATERSHED.

11  
12  
13 **17.13.105 – MARYLAND DEPARTMENT OF NATURAL RESOURCES BIENNIAL REVIEW.**  
14 THE DEPARTMENT SHALL SUBMIT THE NECESSARY DOCUMENTATION TO THE  
15 MARYLAND DEPARTMENT OF NATURAL RESOURCES IN ORDER TO COMPLY WITH  
16 COMAR 08.19.02.04.

17  
18  
19 **17.13.110 – REFERENCES TO THE ANNOTATED CODE OF MARYLAND.**  
20 THE REFERENCES IN THIS CHAPTER TO A SECTION OF THE ANNOTATED CODE OF  
21 MARYLAND SHALL MEAN THAT SECTION AS MAY BE AMENDED FROM TIME TO TIME.

22  
23  
24 **CHAPTER 21.24 - PLANNED DEVELOPMENTS**

25 **21.24.090 PLANNED DEVELOPMENT REVIEW CRITERIA AND FINDINGS.**

26 THE PLANNING COMMISSION SHALL PROVIDE WRITTEN FINDINGS FOR EVERY  
27 APPLICATION UNDER THIS TITLE. THE APPLICATION SHALL BE APPROVED  
28 ONLY IS A MAJORITY OF THE MEMBERS OF THE PLANNING COMMISSION EACH  
29 FIND THAT ALL OF THE NECESSARY REVIEW CRITERIA HAVE BEEN MET:

- 30 A. THE PLANNED DEVELOPMENT IS COMPATIBLE WITH THE CHARACTER OF  
31 THE SURROUNDING NEIGHBORHOOD AND THE COMPREHENSIVE PLAN AND  
32 THE PURPOSES OF PLANNED DEVELOPMENTS.  
33 B. THE PROPOSED LOCATIONS OF BUILDINGS, STRUCTURES, OPEN SPACES,  
34 LANDSCAPE ELEMENTS, AND PEDESTRIAN AND VEHICULAR CIRCULATION  
35 SYSTEMS ARE ADEQUATE, SAFE, AND EFFICIENT AND DESIGNED TO  
36 MINIMIZE ANY ADVERSE IMPACT UPON THE SURROUNDING AREA.  
37 C. THE PLANNED DEVELOPMENT WILL PROMOTE HIGH QUALITY DESIGN AND  
38 WILL NOT RESULT IN GREATER ADVERSE IMPACTS TO THE SURROUNDING  
39 AREA COMPARED TO THE DEVELOPMENT THAT MAY OTHERWISE BE  
40 PERMITTED PURSUANT TO THE ZONING CODE IF A PLANNED  
41 DEVELOPMENT WERE NOT APPROVED.  
42 D. THE PLANNED DEVELOPMENT COMPLIES WITH THE PLANNED  
43 DEVELOPMENT USE STANDARDS AND BULK AND DENSITY STANDARDS.  
44 E. THE PLANNED DEVELOPMENT COMPLIES WITH THE SITE DESIGN PLAN  
45 REVIEW CRITERIA PROVIDED IN SECTION 21.22.080  
46 F. THE PLANNED DEVELOPMENT PLAN INCLUDES ADEQUATE PROVISION OF  
47 PUBLIC FACILITIES AND THE PROPOSED INFRASTRUCTURE, UTILITIES AND  
48 ALL OTHER PROPOSED FACILITIES ARE ADEQUATE TO SERVE THE  
49 PLANNED DEVELOPMENT AND ADEQUATELY INTERCONNECT WITH  
50 EXISTING PUBLIC FACILITIES.  
51 G. THE PLANNED DEVELOPMENT PLAN COMPLIES WITH CHAPTER 17.13 OF  
52 THE CITY CODE.

- 1 MODIFICATION, THE PLANNING AND ZONING DIRECTOR SHALL REQUIRE  
2 NOTICE TO ABUTTING PROPERTY OWNERS, PURSUANT TO THE  
3 REQUIREMENTS OF SECTION 21.10.020  
4 3. THE PLANNING AND ZONING DIRECTOR SHALL PROVIDE WRITTEN  
5 NOTIFICATION, AT THE APPLICANT'S EXPENSE, TO THE APPLICANT AND  
6 ABUTTING PROPERTY OWNERS OF THE DIRECTOR'S DECISION TO  
7 ALLOW AN ACCESSORY USE OR STRUCTURE AS A MINOR  
8 MODIFICATION.  
9 4. AN APPEAL OF THE PLANNING AND ZONING DIRECTOR'S DECISION WITH  
10 RESPECT TO ANY MINOR MODIFICATION MAY BE MADE TO THE BOARD  
11 OF APPEALS IN ACCORDANCE WITH THE PROCEDURES OF CHAPTER  
12 21.30  
13 C. MAJOR MODIFICATIONS. MODIFICATIONS TO ANY APPROVED PLANNED  
14 DEVELOPMENT PLAN THAT THE PLANNING AND ZONING DIRECTOR DEEMS  
15 TO BE A MAJOR MODIFICATION MAY BE APPROVED ONLY IN ACCORDANCE  
16 WITH THE PROCEDURES REQUIRED FOR ORIGINAL PLAN APPROVAL,  
17 SUBJECT TO WAIVERS OF PLAN SUBMISSION REQUIREMENTS BY THE  
18 PLANNING AND ZONING DIRECTOR.

19  
20  
21 **21.24.130 - APPEALS.**

22 APPEAL OF PLANNING COMMISSION DECISION. AN APPEAL FROM A DECISION  
23 OF THE PLANNING COMMISSION UNDER THIS CHAPTER SHALL BE MADE TO  
24 THE CIRCUIT COURT OF MARYLAND FOR ANNE ARUNDEL COUNTY IN  
25 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.  
26

27  
28 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
29 **ANNAPOLIS CITY COUNCIL THAT THIS ORDINANCE SHALL TAKE EFFECT FROM THE**  
30 **DATE OF ITS PASSAGE.**  
31

32  
33  
34 **EXPLANATION**

35 CAPITAL LETTERS indicate matter added to existing law.  
36 Strikethrough indicates matter stricken from existing law.  
37 Underlining indicates amendments  
38