



Legislative Summary

O-16-26

Forest Conservation Program Changes to Conform with State Law

The City of Annapolis Office of Law created this summary for the use of Annapolis City Council members during their consideration of the legislation.

Note: This summary outlines the legislation as introduced and does not address any amendments.

Bill Summary

O-16-26 amends Chapter 21.71 (Forest Conservation) of the City Code to align the City's forest conservation program with changes made to Maryland's Forest Conservation Act by Senate Bill 526 (2023). In areas where state law grants local jurisdictions discretion, O-16-26 adopts alternative requirements better suited to the City's environmental and land use conditions.

Background

A 2024 City of Annapolis urban tree canopy assessment conducted using aerial imagery provides the most current picture of Annapolis' urban forest. - [PlanIT Geo, Inc. Report](#)

- The City's tree canopy covers 1,966 acres, or approximately 43% of its 4,529 acres of land area — a net increase of only two acres, or 0.04%, since 2011, reflecting a canopy that has remained largely stable over more than a decade.
- The City has 790 acres of plantable space, showing potential for canopy expansion.
- 82% of the existing canopy is located in residential zones, where a net loss of 12 acres (-0.3%) has occurred across all residential areas combined.
- Only 7% of the City's canopy shades impervious surfaces, leaving the City more vulnerable to urban heat island effects, reduced air quality, and increased stormwater runoff.



- The City's urban forest provides an estimated \$859,506 in annual ecosystem benefits, including \$214,498 in avoided stormwater runoff, \$248,694 in carbon sequestration, and \$396,314 in air quality improvement.

The Annapolis Ahead 2040 Comprehensive Plan, adopted on July 8, 2024, includes tree canopy expansion as part of its Environmental Sustainability Goal ES2: "Expand the City's tree canopy, especially in heat islands and along riparian corridors."

The plan also sets performance measures that require no net loss of tree canopy by 2028 and aims to increase canopy coverage to 50% by 2050.

State Law

The Maryland Forest Conservation Act (FCA) mandates that local governments develop programs to protect forests during building development. Annapolis has adhered to this since 2016 under Chapter 21.71 of its City Code.

On May 8, 2023, Governor Moore signed Senate Bill 526, which requires local governments to meet new goals.

The state's policy goal shifted from preventing net forest loss to actively increasing forest acreage and tree canopy coverage, with regular state reviews of the City's progress.

However, it was taking longer than planned for the state Department of Natural Resources and local governments to create the implementing details for the new law. The General Assembly extended the deadlines by passing House Bill 1511 in the 2024 session.

These changes will take effect in stages starting July 1, 2026, but the DNR has yet to issue a draft ordinance for local governments, which is more than a year overdue after the deadline extension. The Annapolis City Council has decided to move ahead with its version of the state requirements.



Details

O-16-26 modifies eleven sections of Chapter 21.71, as outlined below. Most sections include an explanation of state law requirements ("state context"), followed by the City's specific approach.

Section 21.71.010 (Purpose and General Provisions)

Updates the purpose of the City's Forest Conservation law:

- the City's obligation to develop a forest conservation program consistent with the state Forest Conservation Act;
- a policy of encouraging retention and sustainable management of forest land, including increasing forest acreage and tree canopy coverage as measured every four years; and
- a directive that the chapter be administered consistent with those policies and with the City's tree canopy goals as established in the Annapolis Ahead 2040 Comprehensive Plan (Environmental Sustainability Goal ES2).

Section 21.71.020 (Purpose and General Provisions)

Adds five new definitions:

- 'Degraded Forest,' 'Forest Land,' 'Planted Green Infrastructure,' 'Qualified Conservation,' and 'Tree Canopy' are added, consistent with definitions established or modified by the General Assembly's Senate Bill 526 (2023).

Section 21.71.030 (Application)

State Context

Not every project falls under forest conservation rules. The FCA has certain exemptions, including farming, commercial logging, highway construction, and work in the Chesapeake Bay Critical Area. SB 526 updated some exemptions:

Farming: Now includes orchards, tree farms, and routine forest management.

Solar panels: Developers no longer have afforestation requirements, but must replant if they remove existing forest.



Transit-oriented development: Projects near transit stations are partially exempt but must replant at a reduced ratio or protect an equivalent area.

Large apartment buildings: Buildings with 25 or more units are partially exempt under the same replanting or protection requirement.

Large federal facilities: New federal buildings for 2,500+ employees are fully exempt, but this exemption is not adopted by the City.

City

- Amends the agricultural activity exemption to add orchards and tree farms, consistent with SB 526, and to clarify the 40,000-square-foot threshold triggering the declaration of intent requirement.
- Updates the public utility and electric generating station exemption to conform to current Public Utilities Article citations.
- Adds exemptions for transit-oriented development and multifamily housing of at least 25 units, each conditioned on reforestation at a 1:4 ratio or mitigation protecting $\frac{1}{2}$ acre per acre removed.
- Adds forest management as a new exemption.

Section 21.71.070 (Forest Conservation Plan)

State Context

A forest conservation plan is required from developers, detailing existing on-site trees, those to be kept or removed, and offset measures such as replanting or payments. It has two stages:

- 1) Preliminary Plan: A sketch submitted early in the review process, which is not final and cannot be appealed.
- 2) Final Plan: A detailed submission later on, where the City's approval or denial is an official decision.

City

Restructures the appeal and review provisions:

- Preliminary forest conservation plans remain non-appealable.
- The Department's approval, approval with conditions, or disapproval of a final forest conservation plan is a final decision, appealable to the Building Board of Appeals within 30 days of the Department's written decision.



- A party aggrieved by the Building Board's decision may petition for judicial review in the Circuit Court for Anne Arundel County within 30 days, consistent with the Maryland Rules.
- Stay provisions prohibit forest clearing during the appeal period and, at the Department's discretion, during judicial review.
- Adds a 45-day completeness review with a deemed-approval provision and authority for limited extensions.
- Adds a notice-and-comment requirement: at least 20 days before approving a plan proposing clearing of a priority retention area, the Department must provide notice to abutting and adjacent property owners and an opportunity for written comment (or written and verbal comment for tracts of at least five acres where at least 75% of the priority retention area is proposed for clearing).
- Requires written findings addressing priority retention area clearing and payment-in-lieu proposals.

Section 21.71.080 (Afforestation and Retention)

State Context

Afforestation involves planting trees in areas where none exist, unlike reforestation, which involves replanting trees that were removed. This distinction is important to determine further depletion of already tree-sparse sites.

SB 526 introduced two key afforestation requirements:

- Stream buffers: Developers must now plant trees in unvegetated portions of stream buffers after meeting replanting obligations, unless impractical due to site-specific conditions.
- Priority area procedures: The City must provide written justification before approving the clearing of any priority retention area and follow a notice and comment process.

City

- Adds afforestation requirements for projects on 40,000 square feet or more of land with less than the applicable percentage of forest cover, requiring planting to reach 20% of net tract area for all land use categories, to be completed within two years or three growing seasons.
- Exempts linear projects with no change in land use category and solar photovoltaic facilities from afforestation requirements.



- Requires afforestation of all unforested stream buffers, subject to the same limited exceptions as the state riparian buffer requirement.
- Adds a new priority retention subcategory for urban forests that are most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- Requires written findings and public notice and comment before any clearing of a priority retention area.

Section 21.71.090 (Reforestation)

State Context

Reforestation involves replanting trees to replace those that were removed. Previously, the amount of replanting required depended on the site's initial forest cover, with more forested areas requiring more replanting.

However, SB 526 introduced a new rule: for every acre of forest removed, one acre must be replanted. This ratio is reduced to half an acre for sites in designated priority funding areas where the removed forest isn't in a high-priority zone.

Local governments can opt for a different system if approved by DNR, provided it maintains or increases forest cover over four years.

City

The City elects to retain and modernize its existing threshold-based reforestation system rather than adopt the state's flat ratio, relying on the local alternative authority in Natural Resources Article § 5-1606(d). The City's thresholds by land use category are:

- Agricultural and Resource Areas: 50%
- Medium Density Residential: 25%
- Institutional Development, High Density Residential, Mixed Use/PUD, and Commercial/Industrial: 20%

Above the threshold: one acre planted per acre removed. Below the threshold: two acres planted per acre removed. Upon meeting reforestation requirements, all unforested stream buffers must be afforested or reforested.



Section 21.71.100 — Priorities and Time Requirements

Amends the mitigation priority sequence to:

- Simplify the urban area provision to apply citywide wherever the City has adopted a tree management plan, replacing the prior reference to a specific municipal corporation designation.
- Expand the permissible mitigation sequence to add: restoration of degraded forest (credit not to exceed 50% of the area restored); and establishment of planted green infrastructure or environmental site design beyond what is required under stormwater management requirements (full credit).
- Amend the flexibility provision to allow an alternative mitigation sequence "in a manner consistent with the purposes of this chapter," replacing the prior standard of "no net loss of forest within the City limits."

Section 21.71.110 (Forest Conservation Fund)

State Context

When developers cannot plant trees on-site or off-site due to a lack of suitable land or high costs, they may make a payment into a fund instead. This fund supports city tree planting, maintenance, and land acquisition. Senate Bill 526 extends the time for the City to use these funds from two years (or three growing seasons) to five years (or six growing seasons), providing more time for suitable planting locations and for completing the work.

City

- Retains the existing fee structure, distinguishing projects inside and outside a priority funding area, with the outside rate set at 20% above the inside rate.
- Adds a requirement that the fee amount be set by City Council resolution in the annual Fees Schedule.
- Extends the City's spending window from two years or three growing seasons to five years or six growing seasons, consistent with SB 526.
- Adds a requirement that fund contributions equal or exceed the State Forest Conservation Fee.



Section 21.71.120 (Forest Mitigation Bank Credits)

State Context

A forest mitigation bank is not a traditional bank. It allows developers to meet replanting obligations by purchasing “credits” instead of planting trees themselves. Developers buy credits from an approved landowner who has planted or permanently protected an equivalent area of forest elsewhere.

The state sets how many credits a landowner has based on the amount of existing forest land, a promise to set aside land for forest, or an area set aside for tree plantings. It can be trees along streets and parking lots. The land owner sells the credits to the developer.

To ensure environmental benefits from mitigation banking, SB 526 limits new mitigation banks formed after December 31, 2020, to 1) the qualified conservation approach or 2) to new forests in designated priority areas.

City

- Adds Subsection C: qualified conservation completed in a forest mitigation bank may be used to meet up to 50% of the afforestation or reforestation requirement, or up to 60% with state DNR approval after public comment. In either case, the credit granted may not exceed 50% of the forest area encumbered in perpetuity.
- Adds Subsection D: after December 31, 2020, forest mitigation banks may be established only if the application was submitted before that date, or if using qualified conservation in priority retention areas, or newly planted forest in priority afforestation/reforestation areas identified under § 21.71.100 or in a City comprehensive plan.

Section 21.71.130 (Establishing Forest Mitigation Banks)

- Adds the use of qualified conservation as a permissible basis for establishing a forest mitigation bank, alongside the existing options of tree planting and reforestation.