

1 **..Title**

2 **Forest Conservation Requirements and Standards in the City of Annapolis** – For the  
3 purpose of revising requirements and standards for forest conservation in the City of  
4 Annapolis; providing forest stand delineation and forest conservation plan requirements;  
5 providing exceptions to Chapter 21.71 of the City Code; providing for variance  
6 procedures; and all other matters generally relating to forest conservation in the City of  
7 Annapolis.

8 **..Body**

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

12  
13 **Ordinance 32-14 (Amended)**

14  
15 **Referred to**  
16 **Economic Matters Committee**  
17 **Environmental Matters Committee**  
18 **Rules and City Government Committee**  
19 **Finance Committee**

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 revising requirements and standards for forest conservation in the  
29 City of Annapolis; providing forest stand delineation and forest conservation plan  
30 requirements; providing exceptions to Chapter 21.71 of the City Code; providing  
31 for variance procedures; and all other matters generally relating to forest  
32 conservation in the City of Annapolis.

33  
34 **BY** repealing and re-enacting with amendments the following portions of the Code of  
35 the City of Annapolis, 2013 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  
42 Section 21.13.010  
43 Section 21.13.020  
44 Section 21.13.030  
45 Section 21.13.040  
46 Section 21.13.050

- 1 Section 21.13.060
- 2 Section 21.13.070
- 3 Section 21.13.080
- 4 Section 21.13.090
- 5 Section 21.13.100
- 6 Section 21.13.110
- 7 Section 21.13.120
- 8 Section 21.13.130
- 9 Section 21.13.140
- 10 Section 21.13.150
- 11 Section 21.13.160
- 12 Section 21.13.170
- 13 Section 21.13.180
- 14 Section 21.13.190

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SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

CHAPTER 21.71 – FOREST CONSERVATION

21.71.010 – PURPOSE AND GENERAL PROVISIONS.  
TO REVISE AND IMPLEMENT A LOCAL FOREST CONSERVATION PROGRAM FOR PROTECTING FORESTS AND SENSITIVE AREAS THROUGH SITE PLANNING.

21.71.020 - TERMS AND DEFINITIONS.  
IN THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

- “AFFORESTATION” MEANS:
- A. ESTABLISHMENT OF A FOREST ON AN AREA WHERE FOREST COVER DOES NOT EXIST; OR
  - B. PLANTING OF OPEN AREAS IN WHICH THERE IS NO EXISTING FOREST COVER.

“APPLICANT” MEANS A PERSON WHO HAS SUBMITTED AN APPLICATION.

“APPLICATION” MEANS AN APPLICATION FOR APPROVAL OF A PLANNED DEVELOPMENT, SPECIAL EXCEPTION, SUBDIVISION, SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR SEDIMENT CONTROL PERMIT, IN RELATION TO WHICH THERE HAS BEEN SUBMITTED A FOREST STAND DELINEATION FOR A CERTIFICATION OF COMPLETE AND CORRECT, A PRELIMINARY FOREST CONSERVATION PLAN FOR REVIEW, OR A FINAL FOREST CONSERVATION PLAN FOR APPROVAL, FOR A TRACT OF LAND THAT IS 40,000 SQUARE FEET OR GREATER.

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“APPROVED FOREST MANAGEMENT PLAN” MEANS A DOCUMENT:  
A. APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES FORESTER  
ASSIGNED TO THE CITY; AND  
B. THAT OPERATES AS A PROTECTIVE AGREEMENT FOR FOREST  
CONSERVATION AS DESCRIBED IN THE NATURAL RESOURCES ARTICLE,  
§§5-1607(E)---(F).

“BREAK-EVEN POINT” MEANS THE AMOUNT OF FOREST THAT, ACCORDING  
TO THE FOREST CONSERVATION TECHNICAL MANUAL, MUST BE  
RETAINED SO THAT NO MITIGATION IS REQUIRED.

“CALIPER” MEANS THE DIAMETER MEASURED AT TWO INCHES ABOVE  
THE ROOT COLLAR.

“CHAMPION TREE” MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE  
UNITED STATES, A STATE, A COUNTY, OR A MUNICIPALITY.

“COMAR” MEANS THE CODE OF MARYLAND REGULATIONS, AS AMENDED  
FROM TIME TO TIME.

“COMMERCIAL AND INDUSTRIAL USES” MEANS MANUFACTURING  
OPERATIONS, OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER  
SIMILAR USES, AND THEIR ASSOCIATED STORAGE AREAS, YARDING AND  
PARKING AREAS.

“CONTIGUOUS FOREST” MEANS A FOREST THAT CONNECTS THE LARGEST  
UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN, AND  
ADJACENT TO, A SITE.

“CRITICAL HABITAT AREA” MEANS A CRITICAL HABITAT FOR AN  
ENDANGERED SPECIES AND ITS SURROUNDING PROTECTION AREA. A  
CRITICAL HABITAT AREA SHALL:  
A. BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL OF THE  
SPECIES;  
B. BE LIKELY THAT THE SPECIES WILL OCCUPY THE AREA FOR THE  
FORESEEABLE FUTURE; AND  
C. CONSTITUTE HABITAT OF THE SPECIES THAT IS CONSIDERED CRITICAL  
PURSUANT TO THE NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-  
2A-06.

“CRITICAL HABITAT FOR ENDANGERED SPECIES” MEANS A HABITAT AN  
ENDANGERED SPECIES OCCUPIES AS DETERMINED OR LISTED IN THE  
NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-2A-04.

1 “DBH” MEANS DIAMETER AT BREAST HEIGHT, TREE DIAMETER MEASURED  
2 AT 4.5 FEET ABOVE THE GROUND.

3  
4 “DECLARATION OF INTENT” MEANS:

5 A. A SIGNED AND NOTARIZED STATEMENT OF A LANDOWNER OR A  
6 LANDOWNER’S AGENT’S THAT CERTIFIES AN ACTIVITY ON THE  
7 LANDOWNER’S PROPERTY:

8 1. IS FOR CERTAIN ACTIVITIES EXEMPTED PURSUANT TO THIS  
9 CHAPTER OR THE NATURAL RESOURCES ARTICLE, §§5-103 AND 5-  
10 1601--5-1612;

11 2. DOES NOT CIRCUMVENT THE REQUIREMENTS OF THIS CHAPTER OR  
12 THE NATURAL RESOURCES ARTICLE, §§5-103 AND 5-1601—5-1612;  
13 AND

14 3. DOES NOT CONFLICT WITH THE PURPOSES OF ANY OTHER  
15 DECLARATION OF INTENT.

16 B. THE DOCUMENT REQUIRED UNDER COMAR 08.19.01.05 OR THIS  
17 CHAPTER.

18  
19 “DEPARTMENT” MEANS THE CITY OF ANNAPOLIS DEPARTMENT OF  
20 PLANNING AND ZONING.

21  
22 “DEVELOPMENT PLAN” MEANS A DRAWING OR DRAWINGS WHICH  
23 DELINEATE A PLANNED DEVELOPMENT, SPECIAL EXCEPTION,  
24 SUBDIVISION, SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR  
25 SEDIMENT CONTROL PERMIT, OR A FOREST STAND DELINEATION FOR  
26 REVIEW, A PRELIMINARY FOREST CONSERVATION PLAN FOR REVIEW, OR  
27 A FINAL FOREST CONSERVATION PLAN FOR APPROVAL FOR A TRACT OF  
28 LAND THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS 40,000 SQUARE  
29 FEET OR GREATER.

30  
31 “DEVELOPMENT PROJECT” MEANS THE GRADING, CONSTRUCTION OR  
32 REGULATED ACTIVITIES OCCURRING ON A SPECIFIC TRACT OF LAND  
33 THAT, IN ITS EXISTING OR REDEVELOPED STATE, IS 40,000 SQUARE FEET  
34 OR GREATER.

35  
36 “DEVELOPMENT PROJECT COMPLETION” MEANS, FOR PURPOSES OF  
37 AFFORESTATION, REFORESTATION, OR PAYMENT INTO THE FOREST  
38 CONSERVATION FUND, THE TIME OF:

39 A. THE RELEASE OF ANY REQUIRED BOND;

40 B. ANY REQUIRED TRANSFER OF TITLE TO THE CITY ACKNOWLEDGING  
41 ACCEPTANCE OF THE DEVELOPMENT PROJECT’S STREETS,  
42 UTILITIES, AND FACILITIES; AND

43 C. ANY REQUIRED DEPARTMENT OR STATE DESIGNATION THAT A  
44 DEVELOPMENT PROJECT HAS BEEN COMPLETED, OR A PARTICULAR  
45 STAGE OF A STAGED DEVELOPMENT PROJECT HAS BEEN  
46 COMPLETED, AND DOCUMENTED IN WRITING TO THE DEPARTMENT.

1  
2 “DNEP” MEANS THE CITY OF ANNAPOLIS DEPARTMENT OF  
3 NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS.

4 “ENVIRONMENT ARTICLE” MEANS THE ENVIRONMENT ARTICLE OF THE  
5 ANNOTATED CODE OF MARYLAND, AS AMENDED FROM TIME TO TIME.

6  
7 “ERODIBLE SOILS” MEANS SOILS WITH A K-FACTOR OF .35 OR GREATER.

8  
9 “FOREST” MEANS:

10 A. A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER  
11 WOODY PLANTS COVERING A LAND AREA OF 10,000 SQUARE  
12 FEET OR GREATER, WHICH INCLUDES:

- 13 1. AREAS WHICH HAVE AT LEAST 100 LIVE TREES PER ACRE  
14 WITH AT LEAST 50% OF THOSE TREES HAVING A TWO INCH OR  
15 GREATER DIAMETER AT FOUR AND A HALF FEET ABOVE THE  
16 GROUND AND LARGER; AND  
17 2. AREAS WHICH HAVE BEEN CUT ALTHOUGH NOT CLEARED.

18 B. FOREST DOES NOT INCLUDE ORCHARDS.

19  
20 “FOREST CONSERVATION” MEANS THE RETENTION OF EXISTING FOREST  
21 OR THE CREATION OF NEW FOREST AT THE LEVELS WHICH THIS CHAPTER  
22 SETS.

23  
24 “FOREST CONSERVATION AND MANAGEMENT AGREEMENT” MEANS AN  
25 AGREEMENT AS REFERENCED IN THE TAX- PROPERTY ARTICLE, §8-211, OF  
26 THE ANNOTATED CODE OF MARYLAND.

27  
28 “FOREST CONSERVATION TECHNICAL MANUAL” MEANS THE CITY FOREST  
29 CONSERVATION TECHNICAL MANUAL THAT IS USED TO ESTABLISH  
30 MINIMUM STANDARDS ASSOCIATED WITH PREPARING A FOREST STAND  
31 DELINEATION- AND FOREST CONSERVATION PLAN. THE STANDARDS IN  
32 THE CITY FOREST CONSERVATION TECHNICAL MANUAL, INCLUDING  
33 AMENDMENTS, WHICH EXIST ON THE DATE A FOREST CONSERVATION  
34 PLAN IS SUBMITTED, SHALL CONSTITUTE THE MINIMUM STANDARDS  
35 REQUIRED FOR APPROVAL OF A FOREST CONSERVATION PLAN. UNTIL  
36 SUCH TIME AS THE CITY ADOPTS A FOREST CONSERVATION TECHNICAL  
37 MANUAL, THE CITY SHALL USE THE STANDARDS SET FORTH IN THE STATE  
38 FOREST CONSERVATION TECHNICAL MANUAL AS MINIMUM STANDARDS.  
39 A CITY FOREST CONSERVATION TECHNICAL MANUAL AND ANY  
40 AMENDMENTS THERETO SHALL REQUIRE CITY COUNCIL REVIEW AND  
41 APPROVAL

42  
43 “FOREST CONSERVATION PLAN” MEANS A FOREST CONSERVATION PLAN  
44 APPROVED PURSUANT TO THIS CHAPTER.

45

1 “FOREST COVER” MEANS THE AREA OF A SITE MEETING THE DEFINITION  
2 OF FOREST.

3  
4 “FOREST MANAGEMENT PLAN” MEANS A PLAN ESTABLISHING BEST  
5 CONSERVATION AND MANAGEMENT PRACTICES FOR A LANDOWNER IN  
6 ASSESSING THE RESOURCE VALUES OF FORESTED PROPERTY.

7 “FOREST MITIGATION BANK” MEANS AN AREA OF LAND WHICH HAS BEEN  
8 INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS  
9 PURPOSE OF PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

10  
11 “FOREST MITIGATION BANK AGREEMENT” MEANS AN AGREEMENT  
12 BETWEEN THE CITY AND THE OWNER OF A FOREST MITIGATION BANK  
13 THAT COMMITS THE BANKER TO CERTAIN PROCEDURES AND  
14 REQUIREMENTS WHEN CREATING AND OPERATING THE FOREST  
15 MITIGATION BANK.

16  
17 “FOREST MITIGATION BANK PLAN” MEANS A PLAN AN INDIVIDUAL  
18 PROPOSING TO ESTABLISH A FOREST MITIGATION BANK SUBMITS TO THE  
19 DEPARTMENT FOR APPROVAL OF A FOREST MITIGATION BANK.

20  
21 “FOREST STAND DELINEATION” MEANS THE COMPLETE AND CORRECT  
22 INVENTORY AND EVALUATION OF THE EXISTING VEGETATION,  
23 WETLANDS, AND OTHER NATURAL RESOURCES, INCLUDING BUT NOT  
24 LIMITED TO HYDRIC SOILS, SOILS WITH K FACTORS .35 OR GREATER, AND  
25 ANY SLOPES OF .15% OR GREATER ON A SITE PROPOSED FOR  
26 DEVELOPMENT, AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL  
27 MANUAL.

28  
29 “GROWING SEASON” MEANS THE PERIOD OF CONSECUTIVE FROST-FREE  
30 DAYS AS INDICATED IN THE CURRENT SOIL SURVEY PUBLISHED BY THE  
31 NATIONAL COOPERATIVE SOIL SURVEY PROGRAM, 16 U.S.C. §590(A)—(F).

32  
33 “HEALTHY FORESTS” MEANS A BIOLOGICAL COMMUNITY WHERE TREES  
34 AND OTHER WOODY PLANTS DOMINATE AND COVER A LAND AREA OF  
35 10,000 SQUARE FEET OR GREATER, WITH AT LEAST 70% CANOPY CLOSURE,  
36 TREE RECRUITMENT, INCLUDING MID-TO-LATE SUCCESSIONAL SPECIES,  
37 SUFFICIENT FOR A FOREST TO SUSTAIN ITSELF WITHOUT INTERVENTION,  
38 LESS THAN 35% AREA COVERAGE OF INVASIVE SPECIES, AND NOT  
39 ENDANGERED BY INSECT, DISEASE, STORM, OR OTHER DAMAGE, AS THE  
40 DEPARTMENT SHALL SO DETERMINE.

41  
42 “HIGH DENSITY RESIDENTIAL AREAS” MEANS AREAS ZONED FOR  
43 DENSITIES GREATER THAN ONE DWELLING UNIT PER ACRE, INCLUDING  
44 BOTH EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED  
45 INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER  
46 SERVICE.

1  
2 “INSTITUTIONAL DEVELOPMENT AREA” MEANS SCHOOLS, COLLEGES, AND  
3 UNIVERSITIES, MILITARY INSTALLATIONS, TRANSPORTATION FACILITIES,  
4 UTILITY AND SEWER PROJECTS, GOVERNMENT OFFICES AND FACILITIES,  
5 GOLF COURSES, RECREATION AREAS, PARKS, AND CEMETERIES.

6  
7 “INTERMITTENT STREAM” MEANS A STREAM AS DEFINED IN SECTION  
8 26.23.01.01 OF COMAR, OR THOSE AREAS THAT ARE SURFACE WATERS,  
9 CONTAINED WITHIN A DEFINED CHANNEL OR BED, THAT FLOW AT LEAST  
10 ONCE PER YEAR AS EVIDENCED BY HYDRAULICALLY SORTED SEDIMENT,  
11 REMOVAL OF VEGETATIVE LITTER, OR LOOSELY ROOTED VEGETATION  
12 THROUGH THE ACTION OF MOVING WATER INDICATING A DEFINED  
13 CHANNEL OR BED.

14  
15 “LANDSCAPING PLAN” FOR PURPOSES OF THIS CHAPTER MEANS A PLAN  
16 WHICH:

- 17 A. IS DRAWN TO SCALE, SHOWING DIMENSIONS AND DETAILS FOR
- 18 REFORESTING AN AREA AT LEAST 35 FEET WIDE AND COVERING
- 19 2,500 SQUARE FEET OR GREATER IN SIZE;
- 20 B. USES NATIVE OR INDIGENOUS PLANTS WHEN APPROPRIATE; AND
- 21 C. IS PART OF AN APPROVED FOREST CONSERVATION PLAN.

22  
23 “LINEAR PROJECT” MEANS A PROJECT WHICH:

- 24 A. IS ELONGATED WITH NEARLY PARALLEL SIDES;
- 25 B. IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC
- 26 SERVICE NOT OTHERWISE CONTAINED IN AN APPLICATION
- 27 FOR SUBDIVISION, SUCH AS ELECTRICITY, GAS, WATER, SEWER,
- 28 COMMUNICATIONS, TRAINS, AND VEHICLES; AND
- 29 C. MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED
- 30 BOUNDARIES, OR ESTABLISHED EASEMENT RIGHTS.

31  
32 “LOCAL AGENCY” MEANS EACH UNIT IN THE EXECUTIVE, LEGISLATIVE,  
33 OR JUDICIAL BRANCH OF A COUNTY OR MUNICIPAL GOVERNMENT,  
34 INCLUDING AN OFFICE OR DEPARTMENT.

35  
36 “LOT” FOR PURPOSES OF THIS CHAPTER MEANS A UNIT OF LAND, THE  
37 BOUNDARIES OF WHICH HAVE BEEN ESTABLISHED THROUGH  
38 SUBDIVISION OF A LARGER PARCEL, WHICH WILL NOT BE THE  
39 SUBJECT OF FURTHER SUBDIVISION WITHOUT AN APPROVED FOREST  
40 STAND DELINEATION AND FOREST CONSERVATION PLAN, AS DEFINED IN  
41 THE NATURAL RESOURCES ARTICLE, §5-1601, AND THIS CHAPTER,  
42 “MAINTENANCE AGREEMENT” MEANS THE SHORT-TERM MANAGEMENT  
43 AGREEMENT ASSOCIATED WITH AFFORESTATION OR REFORESTATION  
44 PLANS REQUIRED PURSUANT TO THE NATURAL RESOURCES ARTICLE,  
45 §5-1605, AND THIS CHAPTER.

1 “MIXED USE DEVELOPMENT” MEANS A HIGH DENSITY DEVELOPMENT  
2 PROJECT, WHICH INCLUDES TWO OR MORE RESIDENTIAL, OFFICE, OR  
3 COMMERCIAL USES.

4 “NATURAL REGENERATION” MEANS THE NATURAL ESTABLISHMENT OF  
5 TREES AND OTHER VEGETATION WITH AT LEAST 400 WOODY, FREE-TO-  
6 GROW SEEDLINGS PER ACRE, WHICH ARE CAPABLE OF REACHING A  
7 HEIGHT OF AT LEAST 20 FEET AT MATURITY.

8  
9 “NATURAL RESOURCES ARTICLE” MEANS THE NATURAL RESOURCES  
10 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED FROM  
11 TIME TO TIME.

12  
13 NATURAL RESOURCES INVENTORY (“NRI”) MEANS A COMPILATION OF  
14 NATURAL SITE FEATURES INCLUDING , BUT NOT LIMITED TO, FOREST  
15 DELINEATION, GEOLOGICAL DATA, TOPOGRAPHY, SOILS SERIES AND  
16 PPOPERTIES, WATERSHED DATA INCLUDING FLOODPLAINS, WATER  
17 RESOURCES INCLUDING SURFACE WATER, GROUND WATER AND  
18 WETLANDS, WILDLIFE HABITATS AND CONNECTIONS.

19  
20 “NET TRACT AREAS” MEANS:

- 21 A. EXCLUDING AGRICULTURE AND RESOURCE AREAS, THE TOTAL  
22 AREA OF A SITE, INCLUDING BOTH FORESTED AND  
23 NONFORESTED AREAS, TO THE NEAREST 1/10 ACRE, REDUCED BY  
24 THAT AREA WHERE FOREST CLEARING IS RESTRICTED BY THIS  
25 CHAPTER OR OTHER LAW;  
26 B. IN AGRICULTURE AND RESOURCE AREAS, THE PART OF THE  
27 TOTAL TRACT FOR WHICH LAND USE WILL BE CHANGED OR  
28 WILL NO LONGER BE USED FOR PRIMARILY AGRICULTURAL  
29 ACTIVITIES, REDUCED BY THAT AREA WHERE FOREST CLEARING  
30 IS RESTRICTED IN THIS CHAPTER OR OTHER LAW;  
31 C. FOR A LINEAR PROJECT, THE AREA OF A RIGHT-OF-WAY WIDTH,  
32 NEW ACCESS ROADS, AND STORAGE, OR THE LIMITS OF  
33 DISTURBANCE AS SHOWN ON AN APPLICATION FOR SEDIMENT  
34 AND EROSION CONTROL APPROVAL OR IN A CAPITAL  
35 IMPROVEMENT PROGRAM PROJECT DESCRIPTION.

36  
37 NON-TIDAL WETLANDS.

- 38 A. “NON-TIDAL WETLANDS” MEANS AN AREA WHERE:  
39 1. SURFACE OR GROUNDWATER INUNDATES OR SATURATES  
40 AT A FREQUENCY AND DURATION SUFFICIENT TO  
41 SUPPORT, AND UNDER NORMAL CONDITIONS DOES  
42 SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY  
43 ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS,  
44 COMMONLY KNOWN AS HYDROPHYTIC VEGETATION; OR  
45 2. IS CONSIDERED A NON-TIDAL WETLAND IN ACCORDANCE  
46 WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY’S



1                   1989 “FEDERAL MANUAL FOR IDENTIFYING AND  
2                   DELINEATING JURISDICTIONAL WETLAND.”

3           B. “NON-TIDAL WETLANDS” DOES NOT INCLUDE TIDAL WETLANDS  
4           REGULATED PURSUANT TO THE NATURAL RESOURCES ARTICLE,  
5           TITLE 9.

6  
7           “OFF-SITE” MEANS ANY LAND OUTSIDE OF THE LIMITS OF THE AREA  
8           ENCOMPASSED BY THE TRACT OR PARCEL OF RECORD.ON WHICH THE  
9           ACTIVITY IS PROPOSED.

10  
11           “ON-SITE” MEANS ANY LAND WITHIN THE LIMITS OF THE AREA  
12           ENCOMPASSED BY THE TRACT OR PARCEL OF RECORD, INCLUDING AN  
13           AREA CLASSIFIED AS A 100-YEAR FLOODPLAIN, ON WHICH THE ACTIVITY  
14           IS PROPOSED.

15  
16           “100-YEAR FLOOD” MEANS A FLOOD WHICH HAS A 1% CHANCE OF BEING  
17           EQUALED OR EXCEEDED IN ANY GIVEN YEAR. EXCEPT FOR CLASS III  
18           WATERS (NATURAL TROUT STREAMS), A BODY OF WATER WITH A  
19           WATERSHED LESS THAN 400 ACRES IS EXCLUDED.

20  
21           “100-YEAR FLOODPLAIN” MEANS AN AREA ALONG, OR ADJACENT TO, A  
22           STREAM OR BODY OF WATER, EXCEPT TIDAL WATERS, THAT IS CAPABLE  
23           OF STORING OR CONVEYING FLOODWATERS DURING A 100-YEAR  
24           FREQUENCY STORM EVENT, OR A 100-YEAR FLOOD.

25  
26           “PERENNIAL STREAM” MEANS A STREAM CONTAINING SURFACE WATER  
27           THROUGHOUT AN AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST  
28           RECENT 7.5 MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE  
29           UNITED STATES GEOLOGIC SURVEY, OR AS DEFINED IN COMAR 26.23.01.01  
30           AND CONFIRMED BY FIELD VERIFICATION, OR A STREAM WHICH FLOWS  
31           CONTINUOUSLY DURING ALL OF THE CALENDAR YEAR AS A RESULT OF  
32           GROUND WATER DISCHARGE OR SURFACE RUNOFF.

33  
34           “PERSON” MEANS THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, A  
35           MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE  
36           STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER,  
37           TRUSTEE, GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR  
38           REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM,  
39           ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR  
40           AFFILIATES, OR ANY OTHER ENTITY.

41  
42           “PLANNED DEVELOPMENT” FOR PURPOSES OF THIS CHAPTER MEANS A  
43           DEVELOPMENT THE CITY HAS APPROVED AND IS COMPRISED OF A  
44           COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME  
45           LAND USE IN ACCORDANCE WITH AN INTEGRATED PLAN WHICH  
46           PROVIDES FLEXIBILITY IN LAND USE DESIGN WITH AT LEAST 20% OF THE

1 LAND PERMANENTLY DEDICATED TO OPEN SPACE IN RESIDENTIAL  
2 PLANNED DEVELOPMENTS AND AT LEAST 5% IN BUSINESS AND SPECIAL  
3 MIXED USE PLANNED DEVELOPMENTS.

4  
5 “PLANTING PLAN” MEANS A LABELED DIAGRAM THAT SHOWS THE  
6 QUANTITIES, LOCATION, SIZE, SHAPE, COLOR, DETAILS AND  
7 SPECIFICATIONS OF SPECIFIC PLANTS TO BE USED IN THE LANDSCAPE.

8  
9 “PRIORITY RETENTION AREA” MEANS

- 10 A. SPECIFIC AREAS WITH TREES, SHRUBS AND PLANTS LOCATED IN  
11 SENSITIVE AREAS INCLUDING, BUT NOT LIMITED TO, 100-YEAR  
12 FLOODPLAINS, INTERMITTENT, PERENNIAL AND EPHEMERAL  
13 STREAMS AND THEIR BUFFERS, COASTAL BAYS AND THEIR  
14 BUFFERS, NON-TIDAL WETLANDS AND THEIR BUFFERS, STEEP  
15 SLOPES, HYDRIC SOILS AND CRITICAL HABITATS;  
16 B. **AREAS CONTAINING** TREES, SHRUBS, OR PLANTS IDENTIFIED ON  
17 THE LIST OF RARE, THREATENED, AND ENDANGERED SPECIES OF  
18 THE U.S. FISH AND WILDLIFE SERVICE OR THE DEPARTMENT;  
19 C. TREES THAT ARE PART OF A HISTORIC SITE OR ASSOCIATED WITH  
20 A HISTORIC STRUCTURE OR DESIGNATED BY THE DEPARTMENT  
21 AS A NATIONAL, STATE, OR CITY CHAMPION TREE;  
22 D. TREES HAVING A DBH OF 24 INCHES OR A DBH OF 75% OF THE  
23 CURRENT CHAMPION TREE.

24  
25 “PROJECT PLAN” MEANS A PERSON’S CONSTRUCTION, GRADING, OR  
26 SEDIMENT CONTROL ACTIVITY ON AN AREA OF 40,000 SQUARE FEET OR  
27 GREATER. “PROJECT PLAN” MAY ALSO BE A “SITE DESIGN PLAN”  
28 PURSUANT TO SECTION 21.22.020.A OF THE CITY CODE.

29  
30 “PUBLIC UTILITY” MEANS ANY TRANSMISSION LINE OR ELECTRIC  
31 GENERATING STATION; OR WATER, SEWER, ELECTRIC, GAS, TELEPHONE,  
32 OR TELEVISION CABLE SERVICE LINE.

33  
34 PUBLIC UTILITIES ARTICLE MEANS THE PUBLIC UTILITIES ARTICLE OF THE  
35 ANNOTATED CODE OF MARYLAND, AS AMENDED FROM TIME TO TIME.

36  
37 “REFORESTATION” OR “REFORESTED” MEANS

- 38 A. CREATION OF A BIOLOGICAL COMMUNITY DOMINATED BY  
39 TREES AND OTHER WOODY PLANTS AND CONTAINING AT LEAST  
40 100 LIVE TREES PER ACRE WITH AT LEAST 50% OF THOSE TREES  
41 HAVING THE POTENTIAL TO ATTAIN A TWO INCH OR GREATER  
42 DIAMETER MEASURED AT FOUR AND A HALF FEET ABOVE THE  
43 GROUND, WITHIN SEVEN YEARS;  
44 B. ESTABLISHMENT OF A FOREST USING STANDARDS IN THE  
45 FOREST CONSERVATION TECHNICAL MANUAL;

1 C. LANDSCAPING OF AREAS UNDER AN APPROVED LANDSCAPING  
2 PLAN ESTABLISHING A FOREST AT LEAST 35 FEET WIDE AND  
3 COVERING 2,500 SQUARE FEET OR MORE OF AREA; AND

4 D. FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION  
5 LINES A BIOLOGICAL COMMUNITY WHERE TREES AND WOODY  
6 SHRUBS ARE PREDOMINATE WITH NO MINIMUM HEIGHT OR  
7 DIAMETER CRITERIA.  
8

9 “REGULATED ACTIVITY” MEANS ANY OF THE FOLLOWING ACTIVITIES  
10 OCCURRING ON A UNIT OF LAND WHICH IS 40,000 SQUARE FEET OR  
11 GREATER:

- 12 A. SUBDIVISION;
- 13 B. GRADING;
- 14 C. TREE CLEARING, CUTTING OR DESTRUCTION;
- 15 D. PROJECT PLAN;
- 16 E. PLANNED DEVELOPMENT; OR
- 17 F. ACTIVITY WHERE A SEDIMENT CONTROL PERMIT IS REQUIRED.

18  
19 “RETENTION” MEANS THE DELIBERATE HOLDING AND PROTECTION OF  
20 EXISTING TREES, SHRUBS, OR PLANTS ON THE SITE USING STANDARDS IN  
21 THE FOREST CONSERVATION TECHNICAL MANUAL.  
22

23 “SEDIMENT CONTROL PLAN” MEANS A PLAN FOR SEDIMENT CONTROL  
24 PURSUANT TO CHAPTER 17.08 OF THE CITY CODE.  
25

26 “SEEDLING” MEANS AN UN-BRANCHED WOODY PLANT, LESS THAN 24  
27 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ½ INCH  
28 MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.  
29

30 “SELECTIVE CLEARING” MEANS THE PLANNED REMOVAL OF TREES,  
31 SHRUBS, AND PLANTS USING SPECIFIC STANDARDS AND PROTECTION  
32 MEASURES PURSUANT TO AN APPROVED FOREST CONSERVATION PLAN.  
33

34 “SIGNIFICANT TREE” MEANS A CHAMPION TREE, A SPECIMEN TREE, OR A  
35 TREE LOCATED WITHIN 25 FEET OF THE LIMITS OF DISTURBANCE WITH A  
36 DIAMETER OF 24 INCHES OR MORE.  
37

38 “SPECIMEN TREE” MEANS A TREE WITH A DIAMETER EQUAL TO OR  
39 GREATER THAN 24 INCHES OR THAT IS 75 PERCENT OF THE DIAMETER OF  
40 THE STATE CHAMPION TREE, OR A TREE WHICH HAS BEEN DETERMINED  
41 BY THE DEPARTMENT DIRECTOR TO BE OF NOTABLE QUALITY AND OR  
42 HIGH VALUE BECAUSE OF ITS TYPE, SIZE, AGE, HISTORICAL  
43 SIGNIFICANCE, OR WARRANT SPECIAL CONSIDERATION AND  
44 ENCOURAGEMENT FOR PRESERVATION.  
45

46 “STEEP SLOPE” MEANS A SLOPE OF 15% OR GREATER.

1 “STREAM BUFFER” MEANS ALL LANDS LYING WITHIN 100 FEET,  
2 MEASURED FROM THE TOP OF EACH NORMAL BANK OF A PERENNIAL OR  
3 INTERMITTENT STREAM. THE BUFFER MAY BE EXPANDED BEYOND 100  
4 FEET IF THE DEPARTMENT DETERMINES SITE CONDITIONS WARRANT AN  
5 EXPANSION TO PRESERVE NATURAL RESOURCES INCLUDING, BUT NOT  
6 LIMITED TO, STEEP SLOPES, ERODIBLE SOILS, WETLANDS, PRIORITY  
7 RETENTION AREAS, OR OTHER SENSITIVE AREAS.

8  
9 “SUBDIVISION” MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR  
10 MORE LOTS OR PARCELS FOR THE PURPOSE OF AN IMMEDIATE OR FUTURE  
11 TRANSFER OF OWNERSHIP, LEASE, OR DEVELOPMENT OF THE UNIT OF  
12 LAND.

13  
14 “TAX PROPERTY ARTICLE” MEANS THE TAX PROPERTY ARTICLE OF THE  
15 ANNOTATED CODE OF MARYLAND, AS AMENDED FROM TIME TO TIME.

16  
17 “TRACT” MEANS PROPERTY THAT IS THE SUBJECT OF AN APPLICATION.

18  
19 “TREE” MEANS A LARGE, BRANCHED WOODY PLANT HAVING ONE OR  
20 SEVERAL SELF-SUPPORTING STEMS OR TRUNKS THAT ARE EXPECTED TO  
21 REACH A HEIGHT OF AT LEAST 20 FEET AT MATURITY.

22  
23 “VARIANCE” IS AN EXEMPTION GRANTED TO A FEE OWNER OF A TRACT  
24 FROM ONE OR MORE REQUIREMENTS OF THIS CHAPTER. VARIANCE DOES  
25 NOT MEAN A ZONING VARIANCE GOVERNED BY CHAPTER 21.28 OF THE  
26 CIRTY CODE.

27  
28 “WATERSHED” MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED AS  
29 A SUB-BASIN IN SECTION 26.08.02.08 OF COMAR.

30  
31 “WHIP” MEANS AN UN-BRANCHED WOODY PLANT GREATER THAN 24  
32 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE INCH  
33 MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

34  
35 21.71.030 – APPLICATION.

36 A. THIS CHAPTER SHALL APPLY TO AN APPLICATION SUBMITTED BY ANY  
37 OF THE FOLLOWING WHICH HAS NOT BEEN APPROVED BY THE  
38 PLANNING COMMISSION, THE BOARD OF APPEALS, OR THE  
39 DEPARTMENT, AS THE CASE MAY BE, BEFORE THE EFFECTIVE DATE OF  
40 THIS ORDINANCE:

- 41 1. A PERSON;
- 42 2. A PUBLIC UTILITY, UNLESS SPECIFICALLY EXEMPTED IN THIS  
43 CHAPTER;
- 44 3. A UNIT OF FEDERAL, STATE, COUNTY OR MUNICIPAL GOVERNMENT,  
45 INCLUDING A PUBLIC UTILITY OR PUBLIC WORKS PROJECT APPLICANT.

46 B. THIS CHAPTER SHALL NOT BE APPLICABLE TO:

- 1 1. HIGHWAY CONSTRUCTION ACTIVITIES PURSUANT TO THE  
2 NATURAL RESOURCES ARTICLE, §5-103;
- 3 2. AGRICULTURAL ACTIVITIES THAT DO NOT RESULT IN A  
4 CHANGE TO THE LAND USE CATEGORY, INCLUDING  
5 AGRICULTURAL SUPPORT BUILDINGS AND OTHER  
6 RELATED STRUCTURES BUILT IN COMPLIANCE WITH THE  
7 CITY CODE. A PERSON ENGAGING IN AN AGRICULTURAL  
8 ACTIVITY PROPOSING CLEARING 40,000 SQUARE FEET OR  
9 GREATER OF FOREST WITHIN A ONE YEAR PERIOD SHALL  
10 REQUIRE COMPLIANCE WITH THIS CHAPTER, UNLESS SUCH  
11 PERSON SUBMITS A DECLARATION OF INTENT THAT  
12 INCLUDES AN AFFIDAVIT OF THE LANDOWNER THAT THE  
13 LANDOWNER WILL ENGAGE IN AGRICULTURAL  
14 ACTIVITIES ON THE LAND FOR FIVE YEARS FROM THE  
15 DATE OF THE DECLARATION OF INTENT, AND A SKETCH OF  
16 THE PROPERTY THAT SHOWS THE AREAS TO BE CLEARED;
- 17 3. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-  
18 OF-WAY LICENSED PURSUANT TO PUBLIC UTILITY  
19 ARTICLE, §§7-207 AND 7-208 OR 7-205, OR LAND FOR  
20 ELECTRIC GENERATING STATIONS LICENSED PURSUANT  
21 TO PUBLIC UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205, IF  
22 REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND  
23 NECESSITY HAVE BEEN ISSUED IN ACCORDANCE WITH  
24 THE NATURAL RESOURCES ARTICLE, §5-1603(F), AND  
25 CUTTING OR CLEARING OF THE FOREST IS CONDUCTED TO  
26 MINIMIZE THE LOSS OF FOREST;
- 27 4. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC  
28 UTILITY RIGHTS-OF-WAY LICENSED PURSUANT TO PUBLIC  
29 UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205;
- 30 5. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC  
31 UTILITY RIGHTS-OF-WAY WHICH EXISTED BEFORE THE  
32 EFFECTIVE DATE OF THIS CHAPTER, OR INITIAL  
33 CONSTRUCTION OF WHICH WAS APPROVED PURSUANT TO  
34 THIS CHAPTER;
- 35 6. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON  
36 AN EXISTING SINGLE LOT OF RECORD AT THE TIME OF  
37 APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE  
38 EXEMPTED BY THIS CHAPTER, IF THE ACTIVITY DOES NOT  
39 RESULT IN THE CUMULATIVE CUTTING, CLEARING, OR  
40 GRADING OF MORE THAN 10,000 SQUARE FEET OF FOREST,  
41 OR DOES NOT RESULT IN THE CUTTING, CLEARING, OR  
42 GRADING OF A FOREST THAT IS SUBJECT TO THE  
43 REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION  
44 PLAN APPROVED PURSUANT TO THIS CHAPTER;
- 45 7. AN ACTIVITY REQUIRED FOR THE PURPOSE OF  
46 CONSTRUCTING A DWELLING UNIT INTENDED FOR THE

1 USE OF THE OWNER OR A CHILD OF THE OWNER, IF THE  
2 ACTIVITY DOES NOT RESULT IN CUTTING, CLEARING, OR  
3 GRADING OF MORE THAN 10,000 SQUARE FEET OF FOREST;

4 &. AN APPLICATION WHICH HAS BEEN FINALLY APPROVED  
5 BY THE PLANNING COMMISSION, THE BOARD OF APPEALS,  
6 OR THE DEPARTMENT, AS THE CASE MAY BE, WITHIN 60  
7 CALENDAR DAYS AFTER THE EFFECTIVE DATE OF THIS  
8 ORDINANCE.

9 9. A REAL PROPERTY TRANSFER OF TITLE, OR A REAL PROPERTY  
10 TRANSFER TO PROVIDE A SECURITY, LEASEHOLD, OR  
11 OTHER LEGAL OR EQUITABLE INTEREST, OF A PORTION OF  
12 A LOT OR PARCEL, IF THE TRANSFER DOES NOT RESULT IN  
13 A CHANGE IN LAND USE, OR NEW DEVELOPMENT OR  
14 REDEVELOPMENT, WITH ASSOCIATED LAND-DISTURBING  
15 ACTIVITIES.

16 10. AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL  
17 AREA PROTECTION LAW, NATURAL RESOURCES ARTICLE,  
18 §§8-1801--8-1817, INCLUDING BUT NOT LIMITED TO THOSE  
19 AREAS UNTO WHICH CRITICAL AREA FOREST PROTECTION  
20 MEASURES HAVE BEEN EXTENDED PURSUANT TO THE  
21 NATURAL RESOURCES ARTICLE, §5-1602(C);

22 21.71.040 – GENERAL REQUIREMENTS.

23 A. A PERSON SUBMITTING AN APPLICATION TO THE DEPARTMENT  
24 AFTER THE EFFECTIVE DATE OF THIS ORDINANCE SHALL:

25 1. SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION  
26 AND A PRELIMINARY AND FINAL FOREST CONSERVATION  
27 PLAN FOR THE LOT OR PARCEL ON WHICH THE DEVELOPMENT  
28 IS TO BE LOCATED; AND

29 2. USE METHODS THE DEPARTMENT APPROVES TO PROTECT  
30 RETAINED FORESTS AND TREES DURING CONSTRUCTION. UNTIL SUCH  
31 TIME THAT THE CITY PUBLISHES ITS OWN FOREST CONSERVATION  
32 TECHNICAL MANUAL, THE DEPARTMENT SHALL APPLY THE  
33 STANDARDS SET FORTH IN THE STATE FOREST CONSERVATION  
34 TECHNICAL MANUAL.

35 B. THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE CITY  
36 COUNCIL, WITHIN 90 CALENDAR DAYS AFTER THE EFFECTIVE DATE  
37 OF THIS ORDINANCE, A FOREST CONSERVATION TECHNICAL  
38 MANUAL, WHICH SHALL PROVIDE STANDARDS CONSISTENT WITH  
39 THIS CHAPTER AND WHICH SHALL OTHERWISE INCLUDE, WITHOUT  
40 LIMITATION:

41 1. ANY METHODS THE DEPARTMENT APPROVES TO PROTECT  
42 RETAINED FORESTS AND TREES DURING CONSTRUCTION;  
43 2. A DEFINITION OF “PRIORITY RETENTION AREA” IN  
44 DEVELOPMENT AREAS WHICH INCLUDES SPECIMEN TREES;  
45 3. THE DEFINITION OF “HEALTHY FORESTS” SET FORTH IN THIS  
46 CHAPTER;

1           4. A REQUIREMENT THAT ENVIRONMENTAL FEATURES MAPS OR  
2           NATURAL RESOURCES INVENTORY (NRI) SHALL INCLUDE  
3           TOPOGRAPHIC CONTOURS (AT FOOT INTERVALS), STEEP  
4           SLOPES, SOIL CLASSIFICATIONS (INCLUDING HYDRIC  
5           PROPERTIES), “HEALTHY FORESTS,” AND TREES MEASURING 24  
6           INCHES OR GREATER DBH, INTERMITTENT, PERENNIAL, AND  
7           EPHEMERAL STREAMS, STREAM BUFFERS, CRITICAL  
8           HABITATS, NATURAL DRAINAGE COURSES, AND WETLANDS  
9           AND THEIR BUFFERS.

10          C. WHEN ANY PROVISION OF THIS CHAPTER, OR CITY CHARTER OR  
11          OTHER SECTION OF THE CITY CODE CONFLICT, THE DEPARTMENT SHALL  
12          APPLY THE PROVISION THAT CONTAINS THE MORE RESTRICTIVE  
13          REQUIREMENTS.

14  
15          21.71.50 – LOCAL AGENCY APPLICATION

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

20  
21          21.71.060 - FOREST STAND DELINEATION

22          A. AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT A FOREST  
23          STAND DELINEATION, WHEN REQUIRED, IN CONNECTION WITH AN  
24          APPLICATION.

25          B. A FOREST STAND DELINEATION SHALL BE PREPARED BY LICENSED  
26          FORESTER, LICENSED LANDSCAPE ARCHITECT, OF A QUALIFIED PERSON  
27          WHO MEETS THE REQUIREMENTS OF SECTION 08.19.06.01A OF COMAR FOR  
28          THE PREPARATION AND DELIVERY OF A FOREST STAND DELINEATION

29          C. A FOREST STAND DELINEATION SHALL BE SUBMITTED IN PAPER IN THE  
30          NUMBER OF COPIES THE DEPARTMENT REQUIRES, AND IN ELECTRONIC  
31          FORMAT.

32          D. A FOREST STAND DELINEATION SHALL BE USED TO DETERMINE THE  
33          AREAS FOR FOREST CONSERVATION AND SHALL CONTAIN THE  
34          FOLLOWING COMPONENTS:

- 35                  1. A TOPOGRAPHIC MAP WITH CONTOURS AT AN INTERVAL NO  
36                  GREATER THAN ONE FOOT, DELINEATING INTERMITTENT,  
37                  PERENNIAL AND EPHEMERAL STREAMS AND THEIR BUFFERS,  
38                  AND STEEP SLOPES 15% OR GREATER;
- 39                  2. A SOIL MAP DELINEATING SOILS WITH STRUCTURAL  
40                  LIMITATIONS, HYDRIC SOILS; WITH ALL SOIL K VALUES;
- 41                  3. A FOREST STAND MAP INDICATING SPECIES, LOCATION, AND  
42                  SIZE OF TREES AND INDICATING DOMINANT AND CO-  
43                  DOMINANT FOREST TYPES;
- 44                  4. THE LOCATION OF 100-YEAR FLOODPLAINS;
- 45                  5. THE LOCATION AND DELINEATION OF ALL TIDAL WETLANDS  
46                  AND NON-TIDAL WETLANDS AND THEIR BUFFERS;

1           6. APPLICABLE STANDARDS IN THE FOREST CONSERVATION  
2 TECHNICAL MANUAL;

3           7. A REVIEW OF THE WETLANDS COMPONENT OF THE FOREST  
4 STAND DELINEATION BY THE MARYLAND DEPARTMENT OF THE  
5 ENVIRONMENT OR ARMY CORPS OF ENGINEERS, OR BOTH, IF NECESSARY;  
6 AND

7           8. ANY OTHER INFORMATION THE DEPARTMENT DETERMINES IS  
8 NECESSARY TO IMPLEMENT THIS CHAPTER.

9 E. THE DEPARTMENT SHALL HAVE A QUALIFIED PERSON REVIEW THE  
10 WETLAND DELINEATION COMPONENT OF THE FOREST STAND  
11 DELINEATION. THE APPLICANT SHALL BE EXCLUSIVELY RESPONSIBLE  
12 AND LIABLE FOR ALL FEES, COSTS AND EXPENSES OF THE PERSON OR  
13 ENTITY RETAINED BY THE DEPARTMENT AND SHALL PAY THE FULL  
14 AMOUNT DUE DIRECTLY TO THE DEPARTMENT, OR DIRECTLY TO THE  
15 PERSON OR ENTITY RETAINED IF THE DEPARTMENT DIRECTS, WITHIN 30  
16 DAYS AFTER INVOICING.

17 F. WITHIN THREE BUSINESS DAYS AFTER RECEIPT OF A FOREST STAND  
18 DELINEATION, THE DEPARTMENT SHALL REFER THE FOREST STAND  
19 DELINEATION TO DNEP FOR REVIEW, AND DNEP SHALL POST THE FOREST  
20 STAND DELINEATION ON ITS WEBSITE WITHIN SUCH THREE BUSINESS  
21 DAY PERIOD FOR AT LEAST 15 CALENDAR DAYS AND PROVIDE  
22 DIRECTIONS AS TO HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN  
23 COMMENTS, TESTIMONY OR DOCUMENTATION PERTAINING TO THE  
24 FOREST STAND DELINEATION. THE WEBSITE POSTING REQUIREMENT  
25 SHALL APPLY TO ANY AMENDMENTS OR REVISIONS TO THE FOREST  
26 STAND DELINEATION. THE DEPARTMENT AND DNEP SHALL PROMPTLY  
27 EXCHANGE ALL COMMENTS, TESTIMONY AND DOCUMENTATION  
28 RECEIVED FROM THE PUBLIC.

29 G. NO LATER THAN 30 CALENDAR DAYS AFTER THE RECEIPT OF THE  
30 FOREST STAND DELINEATION, DNEP SHALL SEND WRITTEN NOTIFICATION  
31 TO THE DEPARTMENT WHETHER IT CERTIFIES THAT THE FOREST STAND  
32 DELINEATION IS COMPLETE AND CORRECT. IF SO, THE WRITTEN  
33 NOTIFICATION SHALL INDICATE HOW THE FOREST STAND DELINEATION  
34 IS COMPLETE AND CORRECT AND HOW IT MEETS ALL REQUIREMENTS OF  
35 THIS CHAPTER. THE DEPARTMENT SHALL SEND WRITTEN NOTIFICATION  
36 OF THE CERTIFICATION TO THE APPLICANT WITHIN 45 DAYS AFTER  
37 RECEIPT OF THE FOREST STAND DELINEATION.

38 H. IF DNEP DOES NOT CERTIFY A FOREST STAND DELINEATION AS  
39 COMPLETE AND CORRECT, DNEP SHALL SEND WRITTEN NOTIFICATION TO  
40 THE DEPARTMENT TO THIS EFFECT NO LATER THAN 30 CALENDAR DAYS  
41 AFTER THE RECEIPT OF THE FOREST STAND DELINEATION, IN WHICH DNEP  
42 INDICATES THE DEFICIENCIES IN THE FOREST STAND DELINEATION. THE  
43 DEPARTMENT SHALL SEND WRITTEN NOTIFICATION TO THE APPLICANT  
44 OF DNEP'S LACK OF CERTIFICATION WITHIN 45 DAYS AFTER RECEIPT OF  
45 THE FOREST STAND DELINEATION IN WHICH IT INDICATES THE



1 DEFICIENCIES IN THE FOREST STAND DELINEATION AND THE RIGHT TO  
2 RESUBMIT.

3 I. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY  
4 ALLOW ITSELF 15 ADDITIONAL CALENDAR DAYS TO COMPLETE ITS  
5 REVIEW OF AN ORIGINAL OR REVISED FOREST STAND DELINEATION. THE  
6 DEPARTMENT SHALL SEND WRITTEN NOTIFICATION TO THE APPLICANT  
7 TO THIS EFFECT AS SOON AS FEASIBLE, BUT NO LATER THAN THE LAST  
8 DAY ALLOWABLE FOR THE REVIEW OF THE ORIGINAL OR REVISED  
9 SUBMISSION.

10 J. IF AN INITIAL AND REVISED FOREST STAND DELINEATION IS NOT  
11 CERTIFIED AS COMPLETE AND CORRECT, AND THE APPLICANT INTENDS  
12 TO PURSUE A CERTIFIED FOREST STAND DELINEATION, THE DEPARTMENT,  
13 IN LIEU OF THE APPLICANT, SHALL RETAIN A LICENSED FORESTER,  
14 LICENSED LANDSCAPE ARCHITECT, OF A QUALIFIED PERSON WHO MEETS  
15 THE REQUIREMENTS OF SECTION 08.19.06.01A OF COMAR FOR THE  
16 PREPARATION AND DELIVERY OF A FOREST STAND DELINEATION. THE  
17 APPLICANT SHALL BE EXCLUSIVELY RESPONSIBLE AND LIABLE FOR ALL  
18 FEES, COSTS AND EXPENSES OF THE PERSON OR ENTITY RETAINED BY THE  
19 DEPARTMENT AND SHALL PAY THE FULL AMOUNT DUE DIRECTLY TO THE  
20 DEPARTMENT, OR DIRECTLY TO THE PERSON OR ENTITY RETAINED IF THE  
21 DEPARTMENT DIRECTS, WITHIN 30 DAYS AFTER INVOICING.

22 K. ONLY A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A  
23 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS OF SECTION  
24 08.19.06.01A OF COMAR SHALL CONDUCT A REVIEW OF THE FOREST STAND  
25 DELINEATION AND CERTIFY THAT IT IS OR IS NOT COMPLETE AND  
26 CORRECT.

27 L. ALL PROVISIONS FOR POSTING, PUBLIC COMMENT, REVIEW, TIME  
28 REQUIREMENTS, AND NOTICE OF CERTIFICATION STATUS PERTAINING TO  
29 AN ORIGINAL SUBMISSION OF A FOREST STAND DELINEATION SHALL  
30 APPLY TO SUBMISSIONS OF REVISED FOREST STAND DELINEATIONS.

31 M. ALL REVIEW COMMENTS AND CERTIFICATION STATUS MADE BY THE  
32 DEPARTMENT AND DNEP SHALL BE MADE AVAILABLE ONLINE IN THE  
33 CITY'S PERMIT TRACKING DATABASE..

34 N. IF NO FOREST COVER WILL BE DISTURBED DURING ANY  
35 CONSTRUCTION ACTIVITY, THE DEPARTMENT MAY APPROVE A  
36 SIMPLIFIED DELINEATION, THE CONTENTS OF WHICH A SITE VISIT MAY  
37 VERIFY. A SIMPLIFIED DELINEATION MAY BE SUBSTITUTED FOR A  
38 FOREST STAND DELINEATION, AND SHALL BE SUBJECT TO A LONG TERM  
39 PROTECTIVE AGREEMENT APPROVED BY THE DEPARTMENT BEFORE  
40 CERTIFICATION AS COMPLETE AND CORRECT, OR WHICH CERTIFICATION  
41 SHALL BE CONTINGENT UPON A SUBSEQUENTLY APPROVED LONG TERM  
42 PROTECTIVE AGREEMENT.

43 O. A FOREST STAND DELINEATION OR A SIMPLIFIED DELINEATION  
44 MAY REMAIN IN EFFECT FOR A PERIOD OF TIME NOT TO EXCEED 5 YEARS  
45 FROM THE DATE IT IS CERTIFIED BY THE DNEP AS COMPLETE AND  
46 CORRECT.

1 I. A DECISION OF THE DEPARTMENT THAT A FOREST STAND  
2 DELINEATION OR SIMPLIFIED DELINEATION IS COMPLETE AND CORRECT,  
3 OR THAT IT IS NOT COMPLETE AND CORRECT, IS NOT APPEALABLE UNTIL  
4 A FINAL DECISION BY THE PLANNING COMMISSION, THE ZONING BOARD  
5 OF APPEALS OR THE DEPARTMENT, AS THE CASE MAY BE, ON AN  
6 APPLICATION.

7  
8 21.71.070 - FOREST CONSERVATION PLAN

9 A. GENERAL PROVISIONS

10 ~~1.~~ A PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL BE  
11 BASED ON A FOREST STAND DELINEATION OR SIMPLIFIED DELINEATION  
12 THAT DNEP HAS CERTIFIED AS COMPLETE AND CORRECT.

13 2. IN DEVELOPING A FOREST CONSERVATION PLAN, THE APPLICANT  
14 SHALL GIVE PRIORITY TO TECHNIQUES FOR RETAINING FOREST ON  
15 THE SITE.

16 3. IF THE FOREST CONSERVATION PLAN SPECIFIES THAT A FOREST  
17 CANNOT BE RETAINED, THE APPLICANT SHALL DEMONSTRATE TO THE  
18 SATISFACTION OF THE DEPARTMENT:

19 (1) HOW TECHNIQUES FOR FOREST RETENTION HAVE BEEN  
20 EXHAUSTED;

21 (2) WHY THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN  
22 NATURAL RESOURCES ARTICLE, SECTION 5-1607(C)(1), CANNOT BE  
23 LEFT IN AN UNDISTURBED CONDITION:

24 3. IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT  
25 UNDISTURBED, HOW THE SEQUENCE FOR AFFORESTATION OR  
26 REFORESTATION WILL COMPLY WITH NATURAL RESOURCES  
27 ARTICLE, SECTION 5-1607 AND WHERE ON THE SITE IN PRIORITY  
28 AREAS AFFORESTATION AND REFORESTATION WILL OCCUR IN  
29 COMPLIANCE WITH NATURAL RESOURCES ARTICLE SECTION 5-1607,  
30 AND

31 4. HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND PRIORITY  
32 AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE 5-1607(C)(2),  
33 QUALIFIES FOR A VARIANCE.

34 5. WHERE THE EXISTING FOREST AND INDIVIDUAL SIGNIFICANT TREES  
35 CANNOT BE RETAINED, THE FOREST CONSERVATION PLAN SHALL  
36 PROVIDE FOR TREE REPLACEMENT, REFORESTATION OR  
37 AFFORESTATION, WITH-NO NET LOSS OF TREES, IN THE FOLLOWING  
38 ORDER OF PRIORITY:

39 A. ON SITE;

40 B. AT A LOCATION WITHIN THE WATERSHED OF THE CITY OF  
41 ANNAPOLIS;

42 C. AT A LOCATION WITHIN A WATERSHED IN ANNE ARUNDEL  
43 COUNTY AS CLOSE TO THE SITE AS PRACTICAL.

44 6. IF ANY REPLACEMENT, REFORESTATION OR AFFORESTATION CANNOT  
45 OCCUR ON SITE, ALTERNATE LOCATIONS IN THE ESTABLISHED ORDER OF  
46 PRIORITY SHALL BE APPROVED BY THE DEPARTMENT. THE APPLICANT,

1 AT ITS EXCLUSIVE EXPENSE, SHALL OBTAIN ALL NECESSARY  
2 AGREEMENTS AND OTHER APPROVALS TO ALLOW FOR THE USE OF ANY  
3 ALTERNATE LOCATIONS.

4  
5 7. A REGULATED ACTIVITY WITHIN THE NET TRACT AREA THAT OCCURS  
6 WHOLLY OR PARTIALLY IN AREAS REGULATED AS NON-TIDAL  
7 WETLANDS PURSUANT TO THE ENVIRONMENT ARTICLE, TITLE 9, IS  
8 SUBJECT TO THE FOLLOWING NON-TIDAL WETLANDS REGULATORY  
9 REQUIREMENTS AND THE REQUIREMENTS OF THIS CHAPTER:

10 A. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING BUT  
11 NOT LIMITED TO FOREST IN NON-TIDAL WETLANDS THAT IS  
12 RETAINED, SHALL BE COUNTED TOWARDS THE FOREST  
13 CONSERVATION REQUIREMENTS OF THIS CHAPTER;

14 B. FOR THE PURPOSES OF CALCULATING REFORESTATION  
15 MITIGATION PURSUANT TO THIS CHAPTER, A FORESTED NON-  
16 TIDAL WETLAND THAT IS PERMITTED TO BE CUT OR CLEARED  
17 AND APPROPRIATELY MITIGATED PURSUANT TO THE  
18 ENVIRONMENT ARTICLE, TITLE 9, SHALL BE SHOWN ON THE  
19 FOREST CONSERVATION PLAN, THEN SUBTRACTED ON AN ACRE-  
20 FOR-ACRE BASIS FROM THE TOTAL AMOUNT OF FOREST TO BE  
21 CUT OR CLEARED AS PART OF A REGULATED ACTIVITY;

22 C. NON-TIDAL WETLANDS SHALL BE CONSIDERED AS PRIORITY  
23 AREAS FOR RETENTION AND REPLACEMENT;

24 D. FORESTED NON-TIDAL WETLAND IDENTIFICATION AND  
25 DELINEATION SHALL BE INCLUDED AT THE EARLIEST STAGE OF  
26 PLANNING IN ORDER TO ASSIST THE APPLICANT BY AVOIDING  
27 AND REDUCING IMPACTS TO NON-TIDAL WETLANDS.

28 B. PRELIMINARY FOREST CONSERVATION PLAN

29 1. ONLY A LICENSED FORESTER, A LICENSED LANDSCAPE  
30 ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE  
31 REQUIREMENTS OF SECTION 08.19.06.01A OF COMAR SHALL  
32 PREPARE A PRELIMINARY FOREST CONSERVATION PLAN. ONLY  
33 A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A  
34 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS OF  
35 SECTION 08.19.06.01A OF COMAR, SHALL CONDUCT THE  
36 DEPARTMENT'S REVIEW OF A PRELIMINARY FOREST  
37 CONSERVATION PLAN.

38 2. A PRELIMINARY FOREST CONSERVATION PLAN SHALL BE  
39 SUBMITTED IN PAPER IN THE NUMBER OF COPIES THE  
40 DEPARTMENT REQUIRES, AND IN ELECTRONIC FORMAT. .

41 3. A PRELIMINARY FOREST CONSERVATION PLAN SHALL CONTAIN  
42 THE FOLLOWING COMPONENTS:

43 A. THE PRELIMINARY PLAN OF SUBDIVISION OR THE  
44 PROPOSED PROJECT PLAN SUBMITTED FOR SITE DESIGN REVIEW  
45 PRIOR TO THE APPLICANT'S SUBMISSION TO THE PLANNING  
46 COMMISSION;

1           B. THE FOREST STAND DELINEATION OR SIMPLIFIED  
2 DELINEATION THAT HAS BEEN CERTIFIED AS COMPLETE AND  
3 CORRECT;

4           C. A TABLE THAT LISTS THE PROPOSED VALUES OF THE  
5 FOLLOWING, IN SQUARE FEET:

6           I. NET TRACT AREA;

7           II. AREA OF FOREST CONSERVATION REQUIRED; AND

8           III. AREA OF FOREST CONSERVATION THAT THE  
9 APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH  
10 ON-SITE AND OFF-SITE AREAS.

11          D. A GRAPHIC DEMONSTRATION OF THE FOREST  
12 CONSERVATION AREAS PROVIDED ON THE SITE DRAWN TO THE  
13 SAME SCALE AS THE PROJECT PLAN SCALE, WHICH SHALL  
14 ILLUSTRATE AREAS WHERE THE APPLICANT PROPOSES  
15 RETENTION OF EXISTING FOREST, OR AFFORESTATION OR  
16 REFORESTATION;

17          E. AN EXPLANATION OF HOW THE REQUIREMENTS OF  
18 SECTION 21.71.070B OF THIS CHAPTER HAVE BEEN MET;

19          F. A PROPOSED AFFORESTATION OR REFORESTATION PLAN,  
20 WHERE APPROPRIATE, WITH A TIMETABLE AND DESCRIPTION OF  
21 NEEDED SITE AND SOIL PREPARATION, PLANT QUANTITY,  
22 SPECIES, SIZE, AND SPACING;

23          G. ILLUSTRATE PROPOSED LOCATIONS AND TYPES OF  
24 PROTECTIVE DEVICES TO BE USED DURING CONSTRUCTION  
25 ACTIVITIES TO PROTECT TREES AND FORESTS DESIGNATED FOR  
26 CONSERVATION;

27          H. A PROPOSED CONSTRUCTION TIMETABLE LISTING THE  
28 SEQUENCE OF FOREST CONSERVATION PROCEDURES;

29          I. AN ILLUSTRATION OF THE PROPOSED LIMITS OF  
30 DISTURBANCE;

31          J. AN ILLUSTRATION OF THE PROPOSED STOCKPILE AREAS;

32          K. A PROPOSED BINDING TWO-YEAR MAINTENANCE  
33 AGREEMENT SPECIFIED IN SECTION 08.19.05.01 OF COMAR THAT  
34 DETAILS HOW THE AREAS DESIGNATED FOR AFFORESTATION OR  
35 REFORESTATION SHALL BE MAINTAINED TO ENSURE  
36 PROTECTION AND SATISFACTORY GROWTH, INCLUDING  
37 WATERING AND REINFORCEMENT PLANTING PROVISION IF  
38 SURVIVAL RATES FALL BELOW REQUIRED STANDARDS, AS  
39 SHALL BE STATED IN THE FOREST CONSERVATION TECHNICAL  
40 MANUAL;

41          L. A PROPOSED LONG-TERM BINDING PROTECTIVE  
42 AGREEMENT AS SPECIFIED IN COMAR 08.19.05.02 THAT  
43 PROVIDES PROTECTION FOR AREAS OF FOREST  
44 CONSERVATION, INCLUDING AREAS OF AFFORESTATION,  
45 REFORESTATION, AND RETENTION, ADHERES TO FOREST  
46 MANAGEMENT PRACTICES THAT ARE USED TO PRESERVE

1 FOREST, AND DEFINES RESTRICTIONS ON DESIGNATED AREAS OF  
2 FOREST CONSERVATION FOR ACTIVITIES SUCH AS RECREATION;

3 M. JUSTIFICATION FOR ANY PROPOSED DISTURBANCE OF  
4 PRIORITY RETENTION AREAS, INCLUDING REASONS WHY SUCH PRIORITY  
5 RETENTION AREAS CANNOT BE RETAINED AND HOW THE APPLICANT  
6 SHALL REPLACE PROPOSED DISTURBED PRIORITY RETENTION AREAS  
7 THROUGH AFFORESTATION AND REFORESTATION, IN COMPLIANCE WITH  
8 THE REQUIREMENTS OF THIS CHAPTER.

9 N. A STATEMENT OF HOW THE PROJECT WILL FURTHER THE  
10 CITY'S TREE CANOPY COVERAGE GOAL, SET IN CONJUNCTION  
11 WITH THE MARYLAND DEPARTMENT OF NATURAL RESOURCES,  
12 TO INCREASE THE CITY'S TREE CANOPY COVERAGE TO 50% BY  
13 2036 FROM THE 2006 DETERMINATION OF THE MARYLAND  
14 DEPARTMENT OF NATURAL RESOURCES THAT THE CITY'S TREE  
15 CANOPY HAD 46% COVERAGE; AND

16 4. BEFORE THE SUBMISSION OF A PRELIMINARY FOREST  
17 CONSERVATION PLAN, OR THE SUBMISSION OF ANY REVISED  
18 FOREST CONSERVATION PLAN, THE PERSON SUBMITTING SHALL  
19 HOLD A PUBLIC MEETING AND MAKE A PRESENTATION  
20 INDICATING IN DETAIL THE ANTICIPATED CONTENTS OF THE  
21 PRELIMINARY FOREST CONSERVATION PLAN OR REVISED  
22 FOREST CONSERVATION PLAN. THE GENERAL PUBLIC AND  
23 MEMBERS OF THE ANNAPOLIS ENVIRONMENTAL, COMMISSION,  
24 THE DEPARTMENT, AND DNEP MAY PARTICIPATE IN THE PUBLIC  
25 MEETING. THE APPLICANT SHALL GIVE NOTICE OF ANY PUBLIC  
26 MEETING IN ACCORDANCE WITH THE NOTICE REQUIREMENTS OF  
27 SECTION 21.10.020 OF THIS CHAPTER.

28 5. WITHIN THREE BUSINESS DAYS AFTER RECEIPT OF A  
29 PRELIMINARY FOREST CONSERVATION PLAN, THE DEPARTMENT  
30 SHALL REFER THE PRELIMINARY FOREST CONSERVATION PLAN  
31 TO DNEP FOR REVIEW AND DNEP SHALL POST THE PRELIMINARY  
32 FOREST CONSERVATION PLAN ON ITS WEBSITE FOR AT LEAST 15  
33 CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE  
34 PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS,  
35 TESTIMONY, OR DOCUMENTATION PERTAINING TO THE  
36 PRELIMINARY FOREST CONSERVATION PLAN. THE WEBSITE  
37 POSTING REQUIREMENT SHALL APPLY TO ANY AMENDMENTS OR  
38 REVISIONS TO THE PRELIMINARY FOREST CONSERVATION PLAN.  
39 THE DEPARTMENT AND DNEP SHALL PROMPTLY EXCHANGE ALL  
40 COMMENTS, TESTIMONY AND DOCUMENTATION RECEIVED  
41 FROM THE PUBLIC.

42 6. NO LATER THAN 35 CALENDAR DAYS AFTER THE RECEIPT OF THE  
43 PRELIMINARY FOREST CONSERVATION PLAN, DNEP SHALL SEND  
44 WRITTEN NOTIFICATION TO THE DEPARTMENT WHETHER IT  
45 RECOMMENDS APPROVAL OF THE PRELIMINARY FOREST  
46 CONSERVATION PLAN. IF SO, THE WRITTEN NOTIFICATION SHALL

1 INDICATE HOW THE PRELIMINARY FOREST CONSERVATION PLAN  
2 MEETS ALL REQUIREMENTS OF THIS CHAPTER. IF THE DEPARTMENT  
3 AGREES WITH DNEP'S RECOMMENDATION, THE DEPARTMENT  
4 SHALL SEND WRITTEN NOTIFICATION OF THE APPROVAL TO THE  
5 APPLICANT WITHIN 45 CALENDAR DAYS AFTER RECEIPT OF THE  
6 PRELIMINARY FOREST CONSERVATION PLAN. A PRELIMINARY  
7 FOREST CONSERVATION PLAN THAT HAS BEEN RECOMMENDED FOR  
8 APPROVAL BY THE DEPARTMENT SHALL BE SUBMITTED TO THE  
9 PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS WITH  
10 THE APPLICABLE APPLICATION FOR A DEVELOPMENT PLAN, FOR  
11 FINAL DETERMINATION.

12 7. IF THE DEPARTMENT DOES NOT AGREE WITH DNEP'S  
13 RECOMMENDATION, THE DEPARTMENT SHALL OVERRIDE DNEP'S  
14 RECOMMENDATION AND, WITHIN 45 CALENDAR DAYS AFTER THE  
15 RECEIPT OF THE PRELIMINARY FOREST CONSERVATION PLAN,  
16 RETURN THE PRELIMINARY FOREST CONSERVATION PLAN TO THE  
17 PERSON WHO SUBMITTED IT WITH WRITTEN NOTIFICATION OF THE  
18 DISAPPROVAL AND THE REASONS FOR THE DISAPPROVAL.

19 8. IF DNEP DOES NOT RECOMMEND APPROVAL OF THE PRELIMINARY  
20 FOREST CONSERVATION PLAN, DNEP SHALL SEND WRITTEN  
21 NOTIFICATION WITHIN 35 CALENDAR DAYS AFTER RECEIPT OF THE  
22 FOREST CONSERVATION PLAN TO THE DEPARTMENT TO THIS EFFECT AND  
23 INDICATE THE DEFICIENCIES IN THE PRELIMINARY FOREST  
24 CONSERVATION PLAN. IF THE DEPARTMENT AGREES WITH DNEP, THE  
25 DEPARTMENT SHALL SEND WRITTEN NOTIFICATION WITHIN 45 CALENDAR  
26 DAYS TO THE APPLICANT TO THIS EFFECT AND INDICATE THE  
27 DEFICIENCIES IN THE PRELIMINARY FOREST CONSERVATION PLAN. THE  
28 APPLICANT MAY THEN RESUBMIT THE PRELIMINARY FOREST  
29 CONSERVATION PLAN ADDRESSING ALL NOTED DEFICIENCIES. IF THE  
30 DEPARTMENT DOES NOT AGREE WITH DNEP, THE DEPARTMENT MAY  
31 SEND WRITTEN NOTIFICATION TO THE APPLICANT THAT THE  
32 PRELIMINARY FOREST CONSERVATION IS RECOMMENDED FOR APPROVAL  
33 AND SHALL SUBMIT IT TO THE PLANNING COMMISSION OR THE ZONING  
34 BOARD OF APPEALS ALONG WITH THE APPLICATION, FOR A FINAL  
35 DETERMINATION.

36 9. WHEN THE PRELIMINARY FOREST CONSERVATION PLAN IS  
37 SUBMITTED IN CONNECTION WITH A PLANNED DEVELOPMENT OR SPECIAL  
38 EXCEPTION APPLICATION IN CONJUNCTION WITH A SITE DESIGN PLAN  
39 REVIEW APPLICATION NOT REQUIRING PLANNING COMMISSION OR  
40 BOARD OF APPEALS APPROVAL, THE DEPARTMENT SHALL ISSUE A FINAL  
41 DETERMINATION AS TO WHETHER TO APPROVE A FOREST CONSERVATION  
42

43 8. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT  
44 MAY ALLOW ITSELF 15 ADDITIONAL CALENDAR DAYS TO  
45 COMPLETE THE REVIEW OF AN ORIGINAL OR REVISED  
46 PRELIMINARY FOREST CONSERVATION PLAN. THE DEPARTMENT

1 SHALL GIVE WRITTEN NOTIFICATION TO THE APPLICANT TO THIS  
2 EFFECT AS SOON AS FEASIBLE, BUT NO LATER THAN THE LAST DAY  
3 ALLOWABLE FOR REVIEW OF THE ORIGINAL OR REVISED  
4 SUBMISSION.

5 6. ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND  
6 DNEP SHALL BE MADE AVAILABLE ONLINE IN THE CITY'S PERMIT  
7 TRACKING SOFTWARE.

8 10. ALL PROVISIONS FOR POSTING, PUBLIC COMMENT, ~~PUBLIC~~  
9 ~~HEARINGS~~, REVIEW, TIME REQUIREMENTS AND NOTICE PERTAINING  
10 TO AN ORIGINAL SUBMISSION OF A PRELIMINARY FOREST  
11 CONSERVATION PLAN SHALL APPLY TO SUBMISSIONS OF REVISED  
12 PRELIMINARY FOREST CONSERVATION PLANS.

13 C. A RECOMMENDATION FOR APPROVAL BY THE DEPARTMENT  
14 REGARDING A PRELIMINARY FOREST CONSERVATION PLAN IS NOT  
15 APPEALABLE UNTIL A FINAL DETERMINATION IS MADE BY THE  
16 PLANNING COMMISSION, THE ZONING BOARD OF APPEALS, OR THE  
17 DEPARTMENT, AS THE CASE MAY BE, ON THE APPLICABLE  
18 APPLICATION FOR A DEVELOPMENT PLAN.

19 D. FINAL FOREST CONSERVATION PLAN

20 1. A FINAL FOREST CONSERVATION PLAN SHALL:

21 2. INCORPORATE ALL APPROVED ELEMENTS OF THE PRELIMINARY  
22 FOREST CONSERVATION PLAN;

23 3 INCORPORATE A FINAL BINDING TWO-YEAR MAINTENANCE  
24 AGREEMENT SPECIFIED IN SECTION 08.19.05.01 OF COMAR THAT  
25 DETAILS HOW THE AREAS DESIGNATED FOR AFFORESTATION OR  
26 REFORESTATION SHALL BE MAINTAINED TO ENSURE PROTECTION AND  
27 SATISFACTORY GROWTH, INCLUDING WATERING AND  
28 REINFORCEMENT PLANTING PROVISION IF SURVIVAL RATES FALL  
29 BELOW REQUIRED STANDARDS, AS SHALL BE STATED IN THE FOREST  
30 CONSERVATION TECHNICAL MANUAL;

31 4. INCORPORATE A FINAL BINDING LONG-TERM PROTECTIVE  
32 AGREEMENT AS SPECIFIED IN SECTION 08.19.05.02 OF COM AR THAT  
33 PROVIDES PROTECTION FOR AREAS OF FOREST CONSERVATION,  
34 INCLUDING AREAS OF AFFORESTATION, REFORESTATION, AND  
35 RETENTION, ADHERES TO FOREST MANAGEMENT PRACTICES THAT  
36 ARE USED TO PRESERVE FOREST, AND DEFINES RESTRICTIONS ON  
37 DESIGNATED AREAS OF FOREST CONSERVATION FOR ACTIVITIES SUCH  
38 AS RECREATION;

39 E. THE APPLICANT MAY REVISE THE FINAL FOREST CONSERVATION  
40 PLAN THROUGHOUT THE REVIEW PROCESS.

41 F. THE CITY SHALL MAKE ALL REVIEW COMMENTS MADE BY THE  
42 DEPARTMENT, DNEP AND THEIR STAFF AVAILABLE ONLINE IN THE  
43 CITY'S PERMIT TRACKING SOFTWARE AS SOON AS FEASIBLE.

44 21.71.080 – RETENTION.

45 A. THE PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL  
46 GIVE PRIORITY CONSIDERATION TO THE RETENTION OF CONTIGUOUS

1 FOREST COVER AND MINIMIZE THE NEED FOR REFORESTATION AND  
2 TREE REPLACEMENT. HEALTHY FOREST COVER SHALL BE RETAINED  
3 UNLESS REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM  
4 AND THE PLAN CANNOT REASONABLY BE ALTERED.

5 B. PRIORITY RETENTION AREAS. THE FOLLOWING TREES, SHRUBS,  
6 PLANTS, AND SPECIFIC AREAS ARE CONSIDERED PRIORITY FOR  
7 RETENTION AND PROTECTION AND SHALL BE RETAINED, PROTECTED,  
8 AND LEFT IN AN UNDISTURBED CONDITION, UNLESS THE APPLICATION  
9 QUALIFIES FOR A VARIANCE IN ACCORDANCE WITH SECTION 21.71.170  
10 OF THIS CHAPTER, AND SHALL BE SHOWN AS SUCH ON A PRELIMINARY  
11 AND FINAL CONSERVATION PLAN.

- 12 1. TREES, SHRUBS, AND PLANTS LOCATED IN CERTAIN SENSITIVE  
13 AREAS, SUCH AS THE 100-YEAR FLOODPLAIN, STREAMS AND  
14 STREAM BUFFER AREAS, STEEP SLOPES, NON-TIDAL WETLANDS  
15 AND THEIR BUFFERS, AND CRITICAL HABITATS, HYDRIC SOILS  
16 AND SOILS WITH STRUCTURAL LIMITATIONS;
- 17 2. CONTIGUOUS FORESTS;
- 18 3. PRIORITY RETENTION AREAS;
- 19 4. RARE, THREATENED, OR ENDANGERED SPECIES PURSUANT TO  
20 SECTION 08.19.03.01, ARTICLE VII 7.2C, OF COMAR;
- 21 5. TREES ASSOCIATED WITH AN HISTORIC SITE OR STRUCTURE;
- 22 6. TREES DESIGNATED AS A CHAMPION TREE;
- 23 7. HEALTHY SPECIMEN TREES GREATER THAN 24 INCHES  
24 DIAMETER AT BREAST HEIGHT OR SIGNIFICANT TREES THAT ARE  
25 DEEMED RARE, OR OF EXCEPTIONAL QUALITY OR SIZE WITHIN  
26 THE CITY;
- 27 8. FORESTED STREAM BUFFERS;
- 28 9. NON-TIDAL WETLANDS AND THEIR BUFFERS;
- 29 10. FORESTED PARK BUFFERS 100 FEET IN WIDTH; AND
- 30 11. HEALTHY FORESTS.

31 C. WHERE A DEVELOPMENT SITE IS WITHOUT SUFFICIENT PRIORITY  
32 RETENTION AREA TO SATISFY THE FOREST RETENTION  
33 REQUIREMENTS, SUCH REQUIREMENTS SHALL BE SATISFIED THROUGH  
34 THE RETENTION OF NON-PRIORITY AREAS, AND SHOWN AS SUCH ON A  
35 PRFELIMINARY AND FINAL CONSERVATION PLAN, PROVIDED THAT:

- 36 1. PRIORITY AREAS ARE PROTECTED IN RETENTION AREAS;
- 37 2. A MINIMUM 5,000 SQUARE FOOT PROTECTION ZONE IS SPECIFIED;
- 38 3. ALL CRITICAL ROOT ZONE AREAS ARE INCLUDED IN THE  
39 PROTECTION AREA;
- 40 4. THE NON-PRIORITY AREAS PROVIDE ONE OR MORE OF THE  
41 FOLLOWING BENEFITS:
  - 42 A. PROVIDES A VEGETATIVE BUFFER BETWEEN TWO  
43 DIFFERENT LAND USES;
  - 44 B. FOSTERS WILDLIFE HABITAT;
  - 45 C. IMPROVES WATER QUALITY;
  - 46 D. REDUCES RUNOFF FROM EROSION;



- 1 E. REDUCES FLOODING;
- 2 F. PROTECTS STEEP SLOPES;
- 3 G. PROVIDES AREAS FOR RECREATION AND OUTDOOR
- 4 EDUCATION ACTIVITIES.
- 5 5. THE APPLICANT SUFFICIENTLY DEMONSTRATES THAT CLEARING
- 6 BELOW THE BREAK-EVEN POINT MEETS THE REQUIREMENTS OF
- 7 SECTION 21.71.045 C OF THIS CHAPTER.
- 8 D. THE APPLICANT SHALL PROVIDE WRITTEN JUSTIFICATION IN A
- 9 PRELIMINARY FOREST CONSERVATION PLAN FOR REMOVAL OF
- 10 SPECIMEN TREES PURSUANT TO SECTION 21.71.080A OF THIS CHAPTER,
- 11 WHICH SHALL ADDRESS:
  - 12 1. HOW REMOVAL OF PRIORITY TREES IS REQUIRED TO
  - 13 ACCOMMODATE ONE OF THE FOLLOWING:
    - 14 A. RIGHT-OF-WAY;
    - 15 A. SITE ACCESS;
    - 16 B. UTILITY CONNECTIONS;
    - 17 C. OTHER CITY DEVELOPMENTAL
    - 18 STANDARDS; OR
    - 19 D. SITE CONDITIONS AND BEST DESIGN
    - 20 PRACTICES.
  - 21 2. WHY THE APPLICANT CANNOT REVISE THE DEVELOPMENT PLAN
  - 22 TO PRESERVE PRIORITY TREES. EXPENSE OR THE APPLICANT’S
  - 23 UNWILLINGNESS TO REVISE THE DEVELOPMENT PLAN SHALL
  - 24 NOT CONSTITUTE VALID REASONS FOR PROPOSING TO CLEAR
  - 25 PRIORITY TREES.
  - 26 3. HOW THE APPLICANT HAS EXHAUSTED ALL APPROPRIATE
  - 27 TECHNIQUES FOR RETENTION.

28 **21.71.090 – TREE REPLACEMENT, REFORESTATION AND**  
 29 **AFFORESTATION.**

- 30 A. IF ALL REASONABLE EFFORTS TO MAXIMIZE FOREST AND TREE
- 31 PRESERVATION ON-SITE ARE EXHAUSTED, PURSUANT TO SECTION
- 32 21.71.080 OF THIS CHAPTER THE PRELIMINARY AND FINAL FOREST
- 33 CONSERVATION PLAN SHALL PROVIDE FOR TREE REPLACEMENT,
- 34 AFFORESTATION AND REFORESTATION AS INDICATED IN SECTION
- 35 21.71.100 OF THIS CHAPTER.
- 36 B. IF INDIVIDUAL SIGNIFICANT TREES ARE REMOVED, WHETHER WITHIN
- 37 THE FOREST OR OUTSIDE THE FOREST, THEN EACH REMOVED TREE SHALL
- 38 BE 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.

1 C. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST 1000  
2 SQUARE FEET CLEARED ON THE TRACT AREA:

3 1. REFORESTATION SHALL BE AT THE RATE OF ONE-  
4 QUARTER OF THE FORESTED AREA REMOVED ABOVE THE  
5 FOREST CONSERVATION THRESHOLD ESTABLISHED IN  
6 SECTION 21.71.090B OF THIS CHAPTER. FOR THE LAND USE  
7 TYPE IN WHICH THE TRACT IS LOCATED;

8 2. REFORESTATION SHALL BE AT THE RATE OF THREE TIMES  
9 THE FORESTED AREA REMOVED BELOW THE FOREST  
10 CONSERVATION THRESHOLD ESTABLISHED IN SECTION  
11 21.71.090B FOR THE LAND USE TYPE IN WHICH THE TRACT IS  
12 LOCATED; AND

13 3. THE FOREST CONSERVATION TECHNICAL MANUAL MAY  
14 RECOMMEND A CREDIT AGAINST THE AREA REQUIRED TO  
15 BE REFORESTED FOR THOSE FORESTED AREAS RETAINED  
16 ABOVE THE CONSERVATION THRESHOLD, INDIVIDUAL  
17 SIGNIFICANT TREES RETAINED OUTSIDE OF THE FOREST  
18 RETENTION AREAS WHEN NOT LESS THAN 75% OF THE  
19 CRITICAL ROOT ZONE IS PRESERVED, AND FOR THE NUMBER  
20 OF STREET TREES PLANTED.

21 D. AFFORESTATION IS NOT REQUIRED FOR THOSE ACTIVITIES  
22 CONDUCTED:

23 A. ON AN EXISTING SINGLE RECORDED RESIDENTIAL LOT  
24 OF ANY SIZE, PROVIDED THAT THE LOT IS NOT  
25 SUBDIVIDED AND THE COVERED ACTIVITY DOES NOT  
26 RESULT IN THE CUTTING, CLEARING, OR GRADING OF  
27 MORE THAN 20,000 SQUARE FEET OF FOREST; OR

28 B. ON A LINEAR PROJECT, PROVIDED THAT THE ACTIVITY  
29 DOES NOT RESULT IN FOREST CLEARING IN EXCESS OF  
30 20,000 SQUARE FEET.

31 2. ON A TRACT WHERE FOREST COVER PRIOR TO DEVELOPMENT  
32 ACTIVITY IS LESS THAN THE PERCENTAGE OF COVERAGE  
33 ESTABLISHED IN SECTION 21.71.090B OF THIS CHAPTER AS THE  
34 AFFORESTATION LEVEL FOR THE LAND USE TYPE IN WHICH THE  
35 TRACT IS LOCATED, THE FINAL FOREST CONSERVATION PLAN  
36 SHALL PROVIDE FOR THE AFFORESTATION OF THE TRACT TO  
37 THE APPLICABLE AFFORESTATION LEVEL.

38 3. FOREST CUT OR CLEARED BELOW THE REQUIRED  
39 AFFORESTATION LEVEL, IN ACCORDANCE WITH SECTION  
40 21.71.050 C. OF THIS CHAPTER, SHALL BE REPLACED AT A RATE  
41 OF THREE TIMES THE AREA REMOVED, THEN ADDED TO THE  
42 AMOUNT OF AFFORESTATION NECESSARY TO REACH THE  
43 MINIMUM REQUIRED AFFORESTATION LEVEL, WHICH SHALL BE  
44 DETERMINED BY THE AMOUNT OF FOREST THAT EXISTED  
45 BEFORE CUTTING OR CLEARING BEGAN.

- 1           4. THE FOREST CONSERVATION TECHNICAL MANUAL MAY  
2           PROVIDE FOR A CREDIT AGAINST THE AREA REQUIRED TO BE  
3           AFFORESTED FOR INDIVIDUAL SIGNIFICANT TREES RETAINED  
4           OUTSIDE OF THE FOREST RETENTION AREAS WHEN NOT LESS  
5           THAN 75% OF THE CRITICAL ROOT ZONE IS PRESERVED, AND FOR  
6           THE NUMBER OF STREET TREES PLANTED.
- 7           5. THE FOREST CONSERVATION TECHNICAL MAY PROVIDE FOR  
8           CALCULATION OF AFFORESTATION REQUIREMENTS BASED ON  
9           LESS THAN THE TRACT AREA WHEN 75% OR MORE OF A TRACT  
10          AREA HAS PREVIOUSLY BEEN DEVELOPED AND NO MORE THAN  
11          25% OF THE TRACT AREA WILL BE DISTURBED.

12          **E. CATEGORY OF USE AND THRESHOLD LEVELS.**

13

LAND USE TYPE	CONSERVATION THRESHOLD	AFFORESTATION THRESHOLD
AGRICULTURAL AND RESOURCES AREAS	60%	30%
MEDIUM DENSITY RESIDENTIAL AREAS	30%	25%
INSTITUTIONAL DEVELOPMENT AREAS	25%	20%
HIGH DENSITY RESIDENTIAL AREAS AND RESIDENTIAL PLANNED DEVELOPMENT AREAS	25%	20%
MIXED USE AND SPECIAL MIXED PLANNED UNIT-DEVELOPMENT AREAS	20%	15%
COMMERCIAL AND INDUSTRIAL USE AREAS AND COMMERCIAL PLANNED	20%	15%

DEVELOPMENT AREAS		
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1  
2  
3 F. THE AFFORESTATION LEVEL, ESTABLISHED IN SECTION 21.71.090B,  
4 OF THIS CHAPTER SHALL BE THE MINIMUM AMOUNT OF TREE COVER TO  
5 BE PROVIDED. REPLACEMENT TREES, REFORESTATION, AFFORESTATION  
6 AND EXISTING TREES CAN BE USED TO SATISFY TREE COVER  
7 REQUIREMENTS. THE APPLICANT SHALL CALCULATE THE TREE COVER  
8 REQUIREMENTS AND SUCH REQUIREMENTS SHALL BE INDICATED ON THE  
9 PRELIMINARY AND FINAL FOREST CONSERVATION PLAN.

10  
11 G. THE FOREST CONSERVATION TECHNICAL MANUAL MAY PROVIDE  
12 FOR IMPLEMENTATION OF TREE REPLACEMENT, REFORESTATION, AND  
13 AFFORESTATION REQUIREMENTS IN STAGES BASED ON THE PHASES OF  
14 DEVELOPMENT ACTIVITY. THE PRELIMINARY AND FINAL FOREST  
15 CONSERVATION PLAN SHALL SPECIFY THAT TREE REPLACEMENT,  
16 REFORESTATION, AND AFFORESTATION SHALL BE ACCOMPLISHED  
17 WITHIN ONE YEAR OR TWO GROWING SEASONS AFTER COMPLETION OF  
18 THE DEVELOPMENT PROJECT.

19  
20 **21.71.100** – PREFERRED SEQUENCE AND PRIORITIES FOR TREE  
21 REPLACEMENT, REFORESTATION AND AFFORESTATION.

22 A. TREE REPLACEMENT, REFORESTATION AND AFFORESTATION, SHALL  
23 BE PROVIDED FOR IN THE FOLLOWING SEQUENCE, AND SHALL BE  
24 INDICATED ON THE PRELIMINARY AND FINAL FOREST CONSERVATION  
25 PLAN:

- 26 1. SELECTIVE CLEARING AND SUPPLEMENTAL PLANTING ON-SITE;
- 27 2. ON-SITE FOREST CREATION USING TRANSPLANTED OR NURSERY  
28 STOCK,
- 29 3. LANDSCAPING OF AREAS ON-SITE UNDER AN APPROVED  
30 LANDSCAPING PLAN;
- 31 4. ON-SITE STREET TREE PLANTING WITH MATURE CANOPY  
32 COVERAGE GRANTING FULL CREDIT AS A MITIGATION  
33 TECHNIQUE,
- 34 5. ON-SITE FOREST CREATION USING WHIP AND SEEDLING STOCK,
- 35 6. OFF-SITE FOREST CREATION WITHIN THE CITY,
- 36 7. OFF-SITE PLANTING, WITHIN THE CITY, UNDER AN APPROVED  
37 LANDSCAPE PLAN.

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

- 41 1. ESTABLISHMENT OR ENHANCEMENT STREAM BUFFER AREAS  
42 AND COASTAL BAYS AND THEIR BUFFERS, TO WIDTHS OF 100  
43 FEET, WHERE PRACTICAL;

- 1           2. ESTABLISHMENT OR ENHANCEMENT FORESTED AREAS ON 100-
- 2           YEAR FLOODPLAINS;
- 3           3. ESTABLISHMENT OR INCREASE IN CONNECTIONS BETWEEN
- 4           FORESTED AREAS;
- 5           4. ESTABLISHMENT OR ENHANCEMENT FOREST BUFFERS
- 6           ADJACENT TO CRITICAL HABITATS;
- 7           5. STABILIZATION OF STEEP SLOPES;
- 8           6. ENHANCEMENT NON-TIDAL WETLANDS;
- 9           7. ESTABLISHMENT OR ENHANCEMENT BUFFERS BETWEEN
- 10          DIFFERING LAND USES OR ADJACENT TO HIGHWAYS OR UTILITY
- 11          RIGHTS-OF-WAY; AND
- 12          8. ESTABLISHMENT OR ENHANCEMENT FORESTED BUFFERS
- 13          ADJACENT TO PARKLAND.
- 14          9. INCREASE IN THE OVERALL AREA OF CONTIGUOUS FOREST
- 15          COVER;
- 16          10. USE OF NATIVE PLANT MATERIALS.

17           1.

18 **21.71.110 - RECOMMENDED TREE SPECIES.**

- 19          A. TREE SPECIES USED FOR AFFORESTATION OR REFORESTATION SHALL
- 20          BE NATIVE TO THE CITY, WHEN APPROPRIATE, AS DETERMINED BY THE
- 21          DEPARTMENT, AND SELECTED FROM A LIST OF APPROVED SPECIES THE
- 22          DEPARTMENT HAS ESTABLISHED.
- 23          B. THE DEPARTMENT SHALL ADOPT A LIST OF TREE SPECIES TO BE USED
- 24          FOR ANY REQUIRED AFFORESTATION OR REFORESTATION AND
- 25          INCORPORATE IT INTO THE FOREST CONSERVATION TECHNICAL
- 26          MANUAL.

27 **21.71.120 FINANCIAL SECURITY FOR AFFORESTATION AND**

28 **REFORESTATION BONDING.**

- 29          A. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR
- 30          REFORESTATION UNDER THIS CHAPTER SHALL FURNISH FINANCIAL
- 31          SECURITY IN THE FORM OF A BOND, IRREVOCABLE LETTER OF CREDIT,
- 32          OR OTHER SECURITY, WHICH THE DEPARTMENT HAS APPROVED AND
- 33          IN WHICH THE SURETY SHALL:
  - 34               1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND
  - 35               THE ASSOCIATED MAINTENANCE AGREEMENT ARE
  - 36               CONDUCTED AND MAINTAINED IN ACCORDANCE WITH THE
  - 37               APPROVED FOREST CONSERVATION PLAN;
  - 38               2. GUARANTEE IN AN AMOUNT EQUAL TO 110% OF THE ESTIMATED
  - 39               COST, AS THE DEPARTMENT HAS DETERMINED, OF
  - 40               AFFORESTATION AND REFORESTATION; AND
  - 41               3. MAKE SUCH GUARANTEE IN A FORM AND OF A CONTENT THE
  - 42               DEPARTMENT HAS APPROVED.
- 43          B. AFTER TWO GROWING SEASONS, THE PERSON REQUIRED TO FURNISH A
- 44          BOND, IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY
- 45          PURSUANT TO THIS CHAPTER MAY REQUEST REDUCTION OF THE
- 46          AMOUNT OF THE BOND, LETTER OF CREDIT OR OTHER SECURITY BY

1 SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT WITH A  
2 JUSTIFICATION FOR A REDUCTION, THE ESTIMATED OR ACTUAL COSTS  
3 TO ENSURE THAT AFFORESTATION OR REFORESTATION  
4 REQUIREMENTS ARE MET, AND OTHER INFORMATION WHICH THE  
5 DEPARTMENT REQUIRES.

6 C. THE DEPARTMENT SHALL DETERMINE WHETHER A REDUCED AMOUNT  
7 IS SUFFICIENT TO PAY ALLS COSTS AND EXPENSES OF AFFORESTATION  
8 OR REFORESTATION, TAKING TO ACCOUNT:

- 9 1. THE NUMBER OF ACRES;
- 10 2. THE PROPOSED METHOD OF AFFORESTATION OR  
11 REFORESTATION;
- 12 3. THE COST OF PLANTING MATERIALS OR REPLACEMENT  
13 MATERIALS;
- 14 4. THE COST OF MAINTENANCE OF THE AFFORESTATION OR  
15 REFORESTATION PROJECT; AND
- 16 5. ANY OTHER FACTORS THAT THE DEPARTMENT DEEMS ARE  
17 RELEVANT.

18 D. IF, AFTER THREE GROWING SEASONS, THE PLANTINGS ASSOCIATED  
19 WITH THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE  
20 STANDARDS IN THE FOREST CONSERVATION TECHNICAL MANUAL, THE  
21 AMOUNT OF THE BOND, IRREVOCABLE LETTER OF CREDIT, OR OTHER  
22 SECURITY, SHALL BE RETURNED OR RELEASED.

23 E.

24 **21.71.130** - STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION  
25 ACTIVITIES.

26 A. BEFORE CUTTING, CLEARING, GRADING, OR CONSTRUCTION BEGINS  
27 ON A SITE FOR WHICH A FOREST CONSERVATION PLAN IS  
28 REQUIRED PURSUANT TO THIS CHAPTER, THE APPLICANT SHALL  
29 DEMONSTRATE TO THE DEPARTMENT THAT PROTECTIVE DEVICES  
30 HAVE BEEN ESTABLISHED, AND SUCH DEVICES SHALL BE SHOWN ON A  
31 PRELIMINARY AND FINAL CONSERVATION PLAN.

32  
33 **21.71.140** – VARIANCE PROCEDURES.

34 A. A PERSON MAY FILE AN APPLICATION WITH THE DEPARTMENT FOR A  
35 VARIANCE FROM THE REQUIREMENTS OF THIS CHAPTER OR THE  
36 REQUIREMENTS OF THE NATURAL RESOURCES ARTICLE, §§5-1601---5-  
37 1612. THE APPLICATION SHALL ADDRESS EACH OF THE FACTORS SET  
38 FORTH IN SECTION 21.71.170D. .

39 B. THE DEPARTMENT SHALL REFER THE APPLICATION TO DNEP FOR  
40 REVIEW AND A RECOMMENDATION OF APPROVAL OR DISAPPROVAL.  
41 DNEP SHALL MAKE FINDINGS ON ALL FACTORS SET FORTH IN SECTION  
42 21.71.170D AND FORWARD ITS FINDINGS TO THE DEPARTMENT.

43 C. C. THE DEPARTMENT SHALL GIVE NOTICE OF A VARIANCE  
44 APPLICATION TO THE MARYLAND DEPARTMENT OF NATURAL  
45 RESOURCES WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THE  
46 VARIANCE APPLICATION. THE MARYLAND DEPARTMENT OF NATURAL

1 RESOURCES MAY PARTICIPATE IN ANY ADMINISTRATIVE APPEAL  
2 CONCERNING A VARIANCE APPLICATION, OR IN ANY JUDICIAL  
3 PROCEEDING INITIATED AS A RESULT OF AN ADMINISTRATIVE  
4 PROCEEDING WHICH REVIEWS A VARIANCE APPLICATION.

5 D THE DEPARTMENT SHALL MAKE FINDINGS ON ALL OF THE FOLLOWING  
6 FACTORS:

7 1. WHETHER THE SPECIFIC CONDITIONS PARTICULAR TO THE  
8 PROPERTY CAUSE UNWARRANTED HARDSHIP IF THE REQUIREMENTS  
9 OF THIS CHAPTER OR THE REQUIREMENTS OF THE NATURAL  
10 RESOURCES ARTICLE, §§5-1601--5-1612 ARE STRICTLY ENFORCED;

11 2. WHETHER THE PURPOSE OF THE VARIANCE BASED EXCLUSIVELY  
12 UPON THE DESIRE TO INCREASE FINANCIAL GAIN;

13 3. WHETHER THE VARIANCE IS THE MINIMUM VARIANCE  
14 NECESSARY TO AFFORD RELIEF;

15 4. WHETHER THE ENFORCEMENT OF THIS CHAPTER WOULD  
16 DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN SIMILAR AREAS  
17 COMMONLY ENJOY;

18 5. WHETHER GRANTING A VARIANCE WOULD CONFER ON THE  
19 APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO  
20 OTHER APPLICANTS;

21 6. WHETHER THE VARIANCE REQUEST IS BASED ON CONDITIONS OR  
22 CIRCUMSTANCES WHICH ARE THE RESULT OF THE APPLICANT'S  
23 ACTIONS;

24 7. WHETHER THE VARIANCE REQUEST ARISES FROM A CONDITION  
25 RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR  
26 NONCONFORMING, ON A NEIGHBORING PROPERTY; AND

27 8. WHETHER GRANTING A VARIANCE WOULD ADVERSELY AFFECT  
28 WATER QUALITY.

29 D. C. THE DEPARTMENT SHALL SUBMIT ITS RECOMMENDATION FOR  
30 APPROVAL OR DISAPPROVAL OF A VARIANCE TO THE PLANNING  
31 COMMISSION OR THE ZONING BOARD OF APPEALS ALONG WITH THE  
32 APPLICATION, FOR A FINAL DETERMINATION. THE PLANNING  
33 COMMISSION OR THE BOARD OF APPEALS SHALL CONSIDER THE  
34 VARIANCE APPLICATION AT THE TIME OF ITS CONSIDERATION OF THE  
35 APPLICATION FOR A DEVELOPMENT PLAN, AND MAY APPROVE A  
36 VARIANCE UPON A DETERMINATION OF A MAJORITY OF ITS MEMBERS  
37 HEARING THE APPLICATION THAT THE APPLICANT HAS PROVEN EACH  
38 OF THE FACTORS SET FORTH IN SECTION 21.71.090B OF THIS CHAPTER.

39 E. IF THE VARIANCE IS SOUGHT IN CONJUNCTION WITH A SITE DESIGN  
40 PLAN APPLICATION, NOT REQUIRING PLANNING COMMISSION OR ZONING  
41 BOARD OF APPEALS APPROVAL, THE DEPARTMENT SHALL ISSUE A FINAL  
42 DETERMINATION ON THE VARIANCE APPLICATION.

43

44 **21.71.150 - ANNUAL REPORT.**

1 ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL  
2 SUBMIT TO THE MARYLAND DEPARTMENT OF NATURAL RESOURCES A  
3 REPORT WHICH CONTAINS:

- 4 A. THE NUMBER, LOCATION, AND TYPE OF PROJECTS SUBJECT TO THE  
5 PROVISIONS OF THIS CHAPTER;
- 6 B. THE AMOUNT AND LOCATION OF ACRES CLEARED, CONSERVED,  
7 AND PLANTED, INCLUDING ANY AREAS LOCATED IN THE 100-YEAR  
8 FLOODPLAIN IN CONNECTION WITH A DEVELOPMENT PROJECT;
- 9 C. THE AMOUNT OF REFORESTATION AND AFFORESTATION FEES AND  
10 NONCOMPLIANCE PENALTIES COLLECTED AND EXPENDED;
- 11 D. THE COSTS OF IMPLEMENTING THE FOREST CONSERVATION  
12 PROGRAM;
- 13 E. THE LOCATION AND SIZE OF ALL FOREST MITIGATION BANKS  
14 APPROVED DURING THE PAST YEAR WITH A DESCRIPTION OF THE  
15 PRIORITY AREAS THE BANK HAS AFFORESTED OR REFORESTED;
- 16 F. THE NUMBER OF ACRES DEBITED FROM EACH FOREST MITIGATION  
17 BANK SINCE THE LAST ANNUAL REPORT;
- 18 G. THE FOREST MITIGATION BANKS INSPECTED SINCE THE LAST  
19 ANNUAL REPORT;
- 20 H. THE NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES  
21 OF ENFORCEMENT ACTIVITIES CONDUCTED;
- 22 I. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED  
23 FOREST AREAS SHALL BE SUBMITTED IN AN ELECTRONIC  
24 GEOGRAPHIC INFORMATION SYSTEM OR COMPUTER AIDED DESIGN  
25 FORMAT IF POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE  
26 GIVEN BY MARYLAND STATE PLANE GRID COORDINATES AND 8  
27 DIGIT SUB-WATERSHED.

28 J.

29 **21.71.160** – MARYLAND DEPARTMENT OF NATURAL RESOURCES BIENNIAL  
30 REVIEW.

31 THE DEPARTMENT SHALL SUBMIT THE NECESSARY DOCUMENTATION  
32 TO THE MARYLAND DEPARTMENT OF NATURAL RESOURCES IN ORDER TO  
33 COMPLY WITH SECTION 08.19.02.04 OF COMAR.

34  
35 **21.71.170** – ENFORCEMENT.

36 A. FEES.

- 37 1. THE DEPARTMENT IS AUTHORIZED TO ASSESS A PENALTY OF  
38 \$0.75 PER SQUARE FOOT OF ANY NON-COMPLIANT AREA TO A  
39 PERSON FOUND NOT IN COMPLIANCE WITH THE REQUIREMENTS  
40 OF THIS CHAPTER, REGULATIONS ADOPTED PURSUANT TO THIS  
41 CHAPTER, THE FOREST CONSERVATION TECHNICAL MANUAL, A  
42 FINAL APPROVAL OF AN APPLICATION BY THE PLANNING  
43 COMMISSION, BOARD OF APPEALS, OR THE DEPARTMENT, AS  
44 THE CASE MAY BE, ANY COURT ORDER RELATING TO THIS  
45 CHAPTER, OR ANY AGREEMENTS REQUIRED BY THIS CHAPTER. .



- 1           2. FEES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN
- 2           THE FOREST CONSERVATION FUND AND THE DEPARTMENT MAY
- 3           USE THE FEES FOR PURPOSES RELATED TO IMPLEMENTATION OF
- 4           AND COMPLIANCE WITH THIS CHAPTER.
- 5           3. THE DEPARTMENT SHALL ASSESS OTHER FEES ASSOCIATED WITH
- 6           THIS CHAPTER AS SET BY RESOLUTION OF THE CITY COUNCIL.

7 B. VIOLATION.

- 8           1. THE CITY MAY SERVE A MUNICIPAL INFRACTION ON A PERSON
- 9           WHO VIOLATES THE REQUIREMENTS OF THIS CHAPTER,
- 10           REGULATIONS ADOPTED PURSUANT TO THIS CHAPTER, THE
- 11           FOREST CONSERVATION TECHNICAL MANUAL, A FINAL
- 12           APPROVAL OF AN APPLICATION BY THE PLANNING COMMISSION,
- 13           BOARD OF APPEALS, OR THE DEPARTMENT, AS THE CASE MAY
- 14           BE, ANY COURT ORDER RELATING TO THIS CHAPTER, OR ANY
- 15           AGREEMENTS REQUIRED BY THIS CHAPTER. .
- 16           2. UPON A FINDING BY A COURT EXERCISING JURISDICTION THAT A
- 17           VIOLATION HAS OCCURRED, OR UPON AN ACKNOWLEDGMENT
- 18           OF THE PERSON THAT A VIOLATION HAS OCCURRED AS STATED
- 19           IN A CITATION, OR UPON SUCH ACKNOWLEDGMENT PRIOR TO
- 20           THE ISSUANCE OF A CITATION, THE PERSON SHALL ABATE AND
- 21           CORRECT THE VIOLATION WITHIN A TIME DETERMINED BY THE
- 22           COURT OR THE DEPARTMENT, AS THE CASE MAY BE, AND SHALL
- 23           BE SUBJECT TO A FINE AS SET BY RESOLUTION OF THE CITY
- 24           COUNCIL.
- 25           3. IN CONJUNCTION WITH SERVICE OF A CITATION, OR
- 26           SEPARATELY, THE DEPARTMENT MAY ISSUE A STOP WORK
- 27           ORDER, OR SUSPEND OR REVOKE A FINAL FOREST
- 28           CONSERVATION PLAN, IF IT FINDS THAT THERE IS A VIOLATION
- 29           OF THE REQUIREMENTS OF THIS CHAPTER, REGULATIONS
- 30           ADOPTED PURSUANT TO THIS CHAPTER, THE FOREST
- 31           CONSERVATION TECHNICAL MANUAL, A FINAL APPROVAL OF
- 32           AN APPLICATION BY THE PLANNING COMMISSION, BOARD OF
- 33           APPEALS, OR THE DEPARTMENT, AS THE CASE MAY BE, ANY
- 34           COURT ORDER RELATING TO THIS CHAPTER, OR ANY
- 35           AGREEMENTS REQUIRED BY THIS CHAPTER. .
- 36           4. EACH DAY A VIOLATION CONTINUES SHALL CONSTITUTE A
- 37           SEPARATE VIOLATION FOR WHICH A SEPARATE CITATION MAY
- 38           BE SERVED AND A SEPARATE FINE IMPOSED.

39 C. THE CITY MAY SEEK AN INJUNCTION OR OTHER EQUITABLE RELIEF  
40 REQUIRING A PERSON TO CEASE VIOLATION OF THIS CHAPTER AND  
41 TAKE ABATEMENT AND CORRECTIVE ACTION TO RESTORE OR  
42 REFOREST AN AREA.

43 D. THE CITY MAY ADOPT THE ENFORCEMENT PROVISIONS OF SECTION  
44 08.19.06.03 OF COMAR.

45 E. THE CITY SHALL PROVIDE TO THE MARYLAND DEPARTMENT OF  
46 NATURAL RESOURCES A NOTICE OF AN ENFORCEMENT ACTION WITHIN 15

1 DAYS AFTER THE COMMENCEMENT OF AN ENFORCEMENT ACTION BY THE  
2 CITY.

3  
4 **21.71.180. APPEALS**

5 1 ANY PERSON AGGRIEVED OF A DECISION OF THE DEPARTMENT TO  
6 SUSPEND OR REVOKE A FINAL FOREST CONSERVATION PLAN, OR TO  
7 ISSUE A STOP WORK ORDER, OR ANY OTHER DECISION OF THE  
8 DEPARTMENT MADE PURSUANT TO THIS CHAPTER, MAY APPEAL THE  
9 DECISION TO THE BOARD OF APPEALS SUCH APPEAL SHALL BE NOTED  
10 TO AND FILED WITH THE DEPARTMENT WITHIN 30 CALENDAR DAYS  
11 AFTER THE DEPARTMENT'S DECISION AND OTHERWISE IN  
12 ACCORDANCE WITH CHAPTER 21.30 OF THE CITY CODE.

13 2. UPON THE FILING OF AN APPEAL, THE BOARD OF APPEALS SHALL  
14 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 3. ANY PERSON AGGRIEVED BY A DECISION OF THE PLANNING  
18 COMMISSION OR THE BOARD OF APPEALS PURSUANT TO THIS  
19 CHAPTER MAY APPEAL THAT DECISION TO THE CIRCUIT COURT FOR  
20 ANNE ARUNDEL COUNTY IN ACCORDANCE WITH THE MARYLAND  
21 RULES OF PROCEDURE.

22 **21.71.190. EFFECTIVE DATE.**

23 A. THE EFFECTIVE DATE OF THIS ORDINANCE IS THE DATE THAT THE  
24 CITY COUNCIL ADOPTS THIS ORDINANCE OR THE STATE OF MARYLAND  
25 GIVES FINAL APPROVAL TO THIS ORDINANCE, WHICHEVER OCCURS LATER.

26  
27 **CHAPTER 21.24 - PLANNED DEVELOPMENTS**

28 **21.24.090 PLANNED DEVELOPMENT REVIEW CRITERIA AND FINDINGS.**  
29 THE PLANNING COMMISSION SHALL PROVIDE WRITTEN FINDINGS FOR  
30 EVERY APPLICATION UNDER THIS TITLE. THE APPLICATION SHALL BE  
31 APPROVED ONLY IF A MAJORITY OF THE MEMBERS OF THE PLANNING  
32 COMMISSION EACH FIND THAT ALL OF THE NECESSARY REVIEW CRITERIA  
33 HAVE BEEN MET:

34 A. THE PLANNED DEVELOPMENT IS COMPATIBLE WITH THE CHARACTER  
35 OF THE SURROUNDING NEIGHBORHOOD AND THE COMPREHENSIVE  
36 PLAN AND THE PURPOSES OF PLANNED DEVELOPMENTS.

37 B. THE PROPOSED LOCATIONS OF BUILDINGS, STRUCTURES, OPEN  
38 SPACES, LANDSCAPE ELEMENTS, AND PEDESTRIAN AND VEHICULAR  
39 CIRCULATION SYSTEMS ARE ADEQUATE, SAFE, AND EFFICIENT AND  
40 DESIGNED TO MINIMIZE ANY ADVERSE IMPACT UPON THE  
41 SURROUNDING AREA.

42 C. THE PLANNED DEVELOPMENT WILL PROMOTE HIGH QUALITY DESIGN  
43 AND WILL NOT RESULT IN GREATER ADVERSE IMPACTS TO THE  
44 SURROUNDING AREA COMPARED TO THE DEVELOPMENT THAT MAY  
45 OTHERWISE BE PERMITTED PURSUANT TO THE ZONING CODE IF A  
46 PLANNED DEVELOPMENT WERE NOT APPROVED.

- 1 D. THE PLANNED DEVELOPMENT COMPLIES WITH THE PLANNED
- 2 DEVELOPMENT USE STANDARDS AND BULK AND DENSITY
- 3 STANDARDS.
- 4 E. THE PLANNED DEVELOPMENT COMPLIES WITH THE SITE DESIGN PLAN
- 5 REVIEW CRITERIA PROVIDED IN SECTION 21.22.080
- 6 F. THE PLANNED DEVELOPMENT PLAN INCLUDES ADEQUATE PROVISION
- 7 OF PUBLIC FACILITIES AND THE PROPOSED INFRASTRUCTURE,
- 8 UTILITIES AND ALL OTHER PROPOSED FACILITIES ARE ADEQUATE TO
- 9 SERVE THE PLANNED DEVELOPMENT AND ADEQUATELY
- 10 INTERCONNECT WITH EXISTING PUBLIC FACILITIES.
- 11 G. THE PLANNED DEVELOPMENT COMPLIES WITH CHAPTER **21.71** OF THE
- 12 CITY CODE.

13  
14 **21.24.120 - MODIFICATION OF APPROVED PLANS.**

15 APPROVED PLANNED DEVELOPMENT PLANS MAY BE MODIFIED AS  
16 FOLLOWS:

- 17 A. THE PLANNING AND ZONING DIRECTOR MAY AUTHORIZE MINOR
- 18 ADJUSTMENTS IN APPROVED PLANNED DEVELOPMENT PLANS AS
- 19 FOLLOWS:
  - 20 1. MINOR MODIFICATIONS. MINOR MODIFICATIONS OF THE SIZE AND
  - 21 LOCATION OF DRAINAGE WAYS, SEWERS, ROADWAYS, LANDSCAPE
  - 22 ELEMENTS OR OTHER SIMILAR FEATURES, IN LIGHT OF TECHNICAL
  - 23 OR ENGINEERING CONSIDERATIONS.
  - 24 2. MINOR MODIFICATIONS OF THE BULK OF STRUCTURES PROVIDED
  - 25 THAT THE MODIFIED DIMENSIONS COMPLY WITH ALL
  - 26 REQUIREMENTS OF THE APPLICABLE ZONING DISTRICT AND DO NOT
  - 27 ALLOW BUILDINGS CLOSER TO PROPERTY LINES OR OTHERWISE
  - 28 ADVERSELY AFFECT NEIGHBORING PROPERTIES OR THE
  - 29 DEVELOPMENT AUTHORIZED BY THE PLAN AS ORIGINALLY
  - 30 APPROVED.
  - 31 3. ANY REQUEST FOR MODIFICATION OF ANY CONDITION IMPOSED ON
  - 32 A PLANNED DEVELOPMENT, WHICH IS DEEMED BY THE PLANNING
  - 33 DIRECTOR TO BE A MINOR MODIFICATION.
- 34 B. MODIFICATIONS TO ALLOW ACCESSORY USES AND STRUCTURES. THE
- 35 PLANNING AND ZONING DIRECTOR MAY AUTHORIZE THE
- 36 DEVELOPMENT OF ACCESSORY USES OR STRUCTURES AS A MINOR
- 37 MODIFICATION TO AN APPROVED RESIDENTIAL PLANNED
- 38 DEVELOPMENT PLAN AS FOLLOWS:
  - 39 1. A PROPOSED ACCESSORY USE OR STRUCTURE MAY BE FOUND TO
  - 40 BE A MINOR MODIFICATION IF THE ACCESSORY USE OR STRUCTURE
  - 41 WILL NOT ADVERSELY AFFECT NEIGHBORING PROPERTIES OR THE
  - 42 DEVELOPMENT AUTHORIZED BY THE PLAN AS APPROVED AND IS
  - 43 COMPLIANCE WITH ALL OTHER APPLICABLE ZONING CODE
  - 44 PROVISIONS.
  - 45 2. PRIOR TO MAKING A DETERMINATION REGARDING WHETHER THE
  - 46 PROPOSED ACCESSORY USE OR STRUCTURE CONSTITUTES A MINOR

1           MODIFICATION, THE PLANNING AND ZONING DIRECTOR SHALL  
2           REQUIRE NOTICE TO ABUTTING PROPERTY OWNERS, PURSUANT TO  
3           THE 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  
6           AND ABUTTING PROPERTY OWNERS OF THE DIRECTOR'S DECISION  
7           TO ALLOW AN ACCESSORY USE OR STRUCTURE AS A MINOR  
8           MODIFICATION.

9           4. AN APPEAL OF THE PLANNING AND ZONING DIRECTOR'S DECISION  
10           WITH RESPECT TO ANY MINOR MODIFICATION MAY BE MADE TO  
11           THE BOARD OF APPEALS IN ACCORDANCE WITH THE PROCEDURES  
12           OF CHAPTER 21.30

13          C. MAJOR MODIFICATIONS. MODIFICATIONS TO ANY APPROVED PLANNED  
14          DEVELOPMENT PLAN THAT THE PLANNING AND ZONING DIRECTOR  
15          DEEMS TO BE A MAJOR MODIFICATION MAY BE APPROVED ONLY IN  
16          ACCORDANCE WITH THE PROCEDURES REQUIRED FOR ORIGINAL PLAN  
17          APPROVAL, SUBJECT TO WAIVERS OF PLAN SUBMISSION  
18          REQUIREMENTS BY THE PLANNING AND ZONING DIRECTOR.

19          **21.24.130 - APPEALS.**

20           1 ANY PERSON AGGRIEVED BY A DECISION OF THE PLANNING  
21           COMMISSION OR THE BOARD OF APPEALS MAY APPEAL THAT  
22           DECISION TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN  
23           ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

24  
25          **SECTION II:           AND BE IT FURTHER ESTABLISHED AND**  
26          **ORDAINED BY THE ANNAPOLIS CITY COUNCIL** THAT THIS ORDINANCE  
27          SHALL TAKE EFFECT FROM THE DATE OF ITS PASSAGE OR THE DATE THAT  
28          THE STATE OF MARYLAND GIVES FINAL APPROVAL TO THIS ORDINANCE,  
29          WHICEVER OCCURS LATER.

30  
31  
32  
33  
34  
35  
36  
37  
38

**EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law.  
~~Strikethrough~~ indicates matter stricken from existing law.  
Underlining indicates amendments