

1 **..Title**

2 **City of Annapolis Forest Conservation Act** – For the purpose of prohibiting certain  
3 development projects from cutting or clearing certain forests within the City of Annapolis (the  
4 “City”) unless a forest stand delineation and a forest conservation plan associated with such  
5 projects are in effect.

6 **..Body**

7 **CITY COUNCIL OF THE**  
8 **City of Annapolis**

9  
10 **Ordinance 27-15**

11  
12 **Sponsor: Alderwoman Finlayson**

13  
14 **Referred to**

15 **Planning Commission**

16 **Economic Matters Committee**

17 **Environmental Matters Committee**

18 **Rules and City Government Committee**

19 **Finance Committee**

20  
21 **AN ORDINANCE concerning**

22  
23 **City of Annapolis Forest Conservation Act**

24  
25 **FOR** the purpose of prohibiting certain development projects from cutting or clearing certain  
26 forests within the City of Annapolis (the “City”) unless a forest stand delineation and a  
27 forest conservation plan associated with such projects are in effect.

28  
29 **BY** amending the following portions of the Code of the City of Annapolis, 2013 Edition:

30  
31 Section 17.09.025

32  
33 **BY** adding the following portions to the Code of the City of Annapolis, 2013 Edition:

34  
35 Chapter 21.71

36 Section 21.71.010

37 Section 21.71.020

38 Section 21.71.030

39 Section 21.71.040

40 Section 21.71.050

41 Section 21.71.060

42 Section 21.71.070

43 Section 21.71.080

- 1 Section 21.71.090
- 2 Section 21.71.100
- 3 Section 21.71.110
- 4 Section 21.71.120
- 5 Section 21.71.130
- 6 Section 21.71.140
- 7 Section 21.71.150
- 8 Section 21.71.160
- 9 Section 21.71.170
- 10 Section 21.71.180
- 11 Section 21.71.190
- 12 Section 21.71.200

13  
14 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
15 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:  
16

17 **Chapter 17.09 – TREES IN DEVELOPMENT AREAS**

18  
19 **Section 17.09.025 – Applicability.**

- 20
- 21 A. The requirements of this chapter shall apply for any application for a building and  
22 grading permit, or any application for a development project requiring site design plan  
23 review in accordance with the requirements of Chapter 21.22.
  - 24
  - 25 B. ~~The Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources~~  
26 ~~Article, Title 5, Subtitle 16 (or its successors) shall apply to any public or private~~  
27 ~~subdivision plan, or application for a grading permit, or any application for a~~  
28 ~~development project requiring site design review, on areas forty thousand square feet or~~  
29 ~~greater, Except as provided in Annotated Code of Maryland, Natural Resources Article,~~  
30 ~~Section 5-1602(b) (or its successors), CHAPTER 21.71 OF THE CITY CODE SHALL~~  
31 ~~APPLY TO ANY PUBLIC OR PRIVATE SUBDIVISION PLAN, OR APPLICATION~~  
32 ~~FOR A GRADING PERMIT, OR ANY APPLICATION FOR A DEVELOPMENT~~  
33 ~~PROJECT REQUIRING SITE DESIGN REVIEW, ON AREAS 40,000 SQUARE FEET~~  
34 ~~OF GREATER. Where any provision of the Forest Conservation Act and a provision of~~  
35 ~~the City Code both apply, the more restrictive requirements may be employed.~~

36  
37 **CHAPTER 21.71 – FOREST CONSERVATION**

38  
39 **SECTION 21.71.010 – PURPOSE AND GENERAL PROVISIONS**

40  
41 THE CITY COUNCIL HAS DETERMINED THAT TO MEET THE REQUIREMENTS  
42 OF NATURAL RESOURCES ARTICLE, §§5-1601---5-1612, ANNOTATED CODE OF

1 MARYLAND, THE PROVISIONS OF THIS ORDINANCE MUST BE ENACTED TO  
2 PROTECT FORESTS AND ENVIRONMENTALLY SENSITIVE AREAS IN THE CITY.

3  
4 **SECTION 21.71.020 – FOREST AND TREE CONSERVATION DEFINITIONS.**

5  
6 FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE  
7 MEANINGS INDICATED:

8  
9 A. “AFFORESTATION” MEANS:

- 10  
11 1. ESTABLISHMENT OF A FOREST ON AN AREA FROM WHICH FOREST  
12 COVER HAS BEEN ABSENT FOR A LONG PERIOD OF TIME; OR  
13  
14 2. PLANTING OF OPEN AREAS WHICH ARE NOT PRESENTLY IN FOREST  
15 COVER.

16  
17 B. “APPLICANT” MEANS A PERSON WHO HAS SUBMITTED AN APPLICATION  
18 FOR APPROVAL OF A PLANNED DEVELOPMENT SPECIAL EXCEPTION,  
19 SUBDIVISION SITE DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR  
20 SEDIMENT CONTROL PERMIT, OR WHO HAS SUBMITTED A FOREST STAND  
21 DELINEATION FOR REVIEW, A PRELIMINARY FOREST CONSERVATION  
22 PLAN FOR REVIEW, OR A FINAL FOREST CONSERVATION PLAN FOR  
23 APPROVAL FOR A TRACT OF LAND THAT, IN ITS EXISTING OR  
24 REDEVELOPED STATE, IS 40,000 SQUARE FEET OR GREATER.

25  
26 C. “APPROVED FOREST MANAGEMENT PLAN” MEANS A DOCUMENT:

- 27  
28 1. APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES  
29 FORESTER ASSIGNED TO THE CITY; AND  
30  
31 2. WHICH OPERATES AS A PROTECTIVE AGREEMENT FOR FOREST  
32 CONSERVATION AS DESCRIBED IN THE NATURAL RESOURCES  
33 ARTICLE, §§5-1607(E)-(F), ANNOTATED CODE OF MARYLAND.

34  
35 D. “CALIPER” MEANS THE DIAMETER MEASURED AS TWO INCHES ABOVE THE  
36 ROOT COLLAR.

37  
38 E. “CHAMPION TREE” MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE  
39 UNITED STATES, THE STATE, COUNTY, OR THE CITY, AS APPLICABLE;

40  
41 F. “COMAR” MEANS THE MARYLAND CODE OF REGULATIONS.  
42

1 G. "COMMERCIAL AND INDUSTRIAL USES" MEANS MANUFACTURING  
2 OPERATIONS, OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER  
3 SIMILAR USES AND THEIR ASSOCIATED STORAGE AREAS, YARDING AND  
4 PARKING AREAS, MORE SPECIFICALLY DESCRIBED AND DELINEATED IN  
5 CITY CODE SECTION 21.48.020, TABLES OF USES.  
6

7 H. "COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS" MEANS  
8 THE CUTTING AND REMOVING OF TREE STEMS FROM A SITE FOR  
9 COMMERCIAL PURPOSES, LEAVING THE ROOT MASS INTACT.  
10

11 I. "CRITICAL HABITAT AREA" MEANS A CRITICAL HABITAT FOR AN  
12 ENDANGERED SPECIES AND ITS SURROUNDING PROTECTION AREA. A  
13 CRITICAL HABITAT AREA SHALL:  
14

- 15 1. BE LIKELY TO CONTRIBUTE TO THE LONG-TERM SURVIVAL OF THE  
16 SPECIES;
- 17 2. BE LIKELY TO BE OCCUPIED BY THE SPECIES FOR THE FORESEEABLE  
18 FUTURE; AND
- 19 3. CONSTITUTE HABITAT OF THE SPECIES WHICH IS CONSIDERED  
20 CRITICAL UNDER NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-  
21 2A-06, ANNOTATED CODE OF MARYLAND.  
22  
23

24 J. "CRITICAL HABITAT FOR ENDANGERED SPECIES" MEANS A HABITAT  
25 OCCUPIED AN ENDANGERED SPECIES AS DETERMINED OR LISTED UNDER  
26 NATURAL RESOURCES ARTICLE, §§4-2A-04 AND 10-2A- 04, ANNOTATED  
27 CODE OF MARYLAND.  
28

29 K. "DECLARATION OF INTENT" MEANS:  
30

- 31 1. A SIGNED AND NOTARIZED STATEMENT BY A LANDOWNER OR THE  
32 LANDOWNER'S AGENT CERTIFYING THAT THE ACTIVITY ON THE  
33 LANDOWNER'S PROPERTY:  
34  
35
  - 36 i. IS FOR CERTAIN ACTIVITIES EXEMPTED UNDER THIS CHAPTER  
37 OR NATURAL RESOURCES ARTICLE, §§5-103 AND 5-1601--5-  
38 1612, ANNOTATED CODE OF MARYLAND,
  - 39 ii. DOES NOT CIRCUMVENT THE REQUIREMENTS OF THIS  
40 CHAPTER OR NATURAL RESOURCES ARTICLE, §§5-103 AND 5-  
41 1601—5-1612, ANNOTATED CODE OF MARYLAND, AND  
42  
43

1                   iii. DOES NOT CONFLICT WITH THE PURPOSES OF ANY OTHER  
2                   DECLARATION OF INTENT; OR

3  
4                   2. THE DOCUMENT REQUIRED UNDER COMAR 08.19.01.05 OR THIS  
5                   CHAPTER.

6  
7                   L. "DEPARTMENT" MEANS THE CITY DEPARTMENT OF PLANNING AND  
8                   ZONING.

9  
10                  M. DEVELOPMENT PROJECT.

11  
12                  1. "DEVELOPMENT PROJECT" MEANS THE GRADING OR  
13                  CONSTRUCTION ACTIVITIES OCCURRING ON A SPECIFIC TRACT  
14                  THAT IS 40,000 SQUARE FEET OR GREATER.

15  
16                  2. "DEVELOPMENT PROJECT" INCLUDES REDEVELOPMENT.

17  
18                  N. "DEVELOPMENT PROJECT COMPLETION" MEANS FOR THE PURPOSES OF  
19                  AFFORESTATION, REFORESTATION, OR PAYMENT INTO A FUND:

20  
21                  1. THE RELEASE OF THE DEVELOPMENT BOND, IF REQUIRED;

22  
23                  2. ACCEPTANCE OF THE PROJECT'S STREETS, UTILITIES, AND PUBLIC  
24                  SERVICES BY THE DEPARTMENT; OR

25  
26                  3. DESIGNATION BY THE DEPARTMENT OR STATE THAT A:

27  
28                          i. DEVELOPMENT PROJECT HAS BEEN COMPLETED, OR

29  
30                          ii. PARTICULAR STAGE OF A STAGED DEVELOPMENT PROJECT,  
31                          INCLUDING A PLANNED UNIT DEVELOPMENT, HAS BEEN  
32                          COMPLETED.

33  
34                  O. "DNEP" MEANS THE CITY DEPARTMENT OF NEIGHBORHOOD AND  
35                  ENVIRONMENTAL PROGRAMS.

36  
37                  P. FOREST.

38                  1. "FOREST" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY  
39                  TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF  
40                  10,000 SQUARE FEET OR GREATER.

41  
42                  2. "FOREST" INCLUDES:  
43

- 1                   i. AREAS THAT HAVE AT LEAST 100 LIVE TREES PER ACRE WITH  
2                   AT LEAST 50 PERCENT OF THOSE TREES HAVING A TWO INCH  
3                   OR GREATER DIAMETER AT 4.5 FEET ABOVE THE GROUND  
4                   AND LARGER; AND  
5  
6                   ii. AREAS THAT HAVE BEEN CUT BUT NOT CLEARED.

7  
8                   3. "FOREST" DOES NOT INCLUDE ORCHARDS.  
9

- 10           Q. "FOREST CONSERVATION" MEANS THE RETENTION OF EXISTING FOREST  
11           OR THE CREATION OF NEW FOREST AT THE LEVELS SET BY THE STATE OR  
12           THE DEPARTMENT.  
13  
14           R. "FOREST CONSERVATION AND MANAGEMENT AGREEMENT" MEANS AN  
15           AGREEMENT AS STATED IN TAX-PROPERTY ARTICLE, §8-211, ANNOTATED  
16           CODE OF MARYLAND.  
17  
18           S. "FOREST CONSERVATION TECHNICAL MANUAL" MEANS THE CITY OF  
19           ANNAPOLIS FOREST CONSERVATION TECHNICAL MANUAL, USED TO  
20           ESTABLISH STANDARDS OF PERFORMANCE REQUIRED IN PREPARING  
21           FOREST STAND DELINEATIONS AND FOREST CONSERVATION PLANS.  
22  
23           T. "FOREST CONSERVATION PLAN" MEANS A PLAN APPROVED PURSUANT TO  
24           NATURAL RESOURCES ARTICLE, §§5-1606 AND 5-1607, ANNOTATED CODE  
25           OF MARYLAND AND THIS CHAPTER.  
26  
27           U. "FOREST COVER" MEANS THE AREA OF A SITE MEETING THE DEFINITION  
28           OF FOREST.  
29  
30           V. "FOREST MANAGEMENT PLAN" MEANS A PLAN ESTABLISHING BEST  
31           CONSERVATION AND MANAGEMENT PRACTICES FOR A LANDOWNER IN  
32           ASSESSMENT OF THE RESOURCE VALUES OF FORESTED PROPERTY.  
33  
34           W. "FOREST MITIGATION BANK" MEANS AN AREA OF LAND WHICH HAS BEEN  
35           INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS  
36           PURPOSE OF PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.  
37  
38           X. "FOREST MITIGATION BANK AGREEMENT" MEANS AN AGREEMENT  
39           ENTERED INTO BY AN INDIVIDUAL OWNING A FOREST MITIGATION BANK  
40           AND THE DEPARTMENT OR LOCAL GOVERNMENT WHICH COMMITS THE  
41           BANKER TO CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING  
42           AND OPERATING THE FOREST MITIGATION BANK.  
43

1 Y. "FOREST MITIGATION BANK PLAN" MEANS A PLAN SUBMITTED FOR  
2 APPROVAL OF A FOREST MITIGATION BANK TO THE DEPARTMENT, OR A  
3 LOCAL GOVERNMENT WITH AN APPROVED LOCAL PROGRAM, BY AN  
4 INDIVIDUAL PROPOSING TO ESTABLISH A FOREST MITIGATION BANK.  
5

6 Z. "FOREST STAND DELINEATION" MEANS THE METHODOLOGY FOR  
7 EVALUATING THE EXISTING VEGETATION ON A SITE PROPOSED FOR  
8 DEVELOPMENT, AS PROVIDED IN THE FOREST CONSERVATION TECHNICAL  
9 MANUAL.  
10

11 AA. "GROWING SEASON" MEANS THE PERIOD OF CONSECUTIVE FROST-FREE  
12 DAYS AS STATED IN THE CURRENT SOIL SURVEY FOR THIS COUNTRY  
13 PUBLISHED BY THE NATIONAL COOPERATIVE SOIL SURVEY PROGRAM, 16  
14 U.S.C. §590(A)—(F).  
15

16 BB. "HEALTHY FORESTS" MEANS A BIOLOGICAL COMMUNITY WHERE TREES  
17 AND OTHER WOODY PLANTS DOMINATE AND COVER A LAND AREA OF  
18 10,000 SQUARE FEET OR GREATER, WITH AT LEAST 70% CANOPY CLOSURE,  
19 ADEQUATE TREE STOCKING, NOTICEABLE TREE RECRUITMENT  
20 (INCLUDING MID-TO-LATE SUCCESSIONAL SPECIES), LESS THAN 35% AREA  
21 COVERAGE OF INVASIVE SPECIES, AND RELATIVELY FREE OF INSECT,  
22 DISEASE, STORM, AND OTHER DAMAGE (LESS THAN 45% CANOPY  
23 MORTALITY), AS THE DEPARTMENT SHALL SO DETERMINE.  
24

25 CC. "HIGH DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR  
26 DENSITIES GREATER THAN ONE DWELLING UNIT PER ACRE, INCLUDING  
27 BOTH EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED  
28 INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER  
29 SERVICE.  
30

31 DD. "INSTITUTIONAL DEVELOPMENT AREA" MEANS AREAS ZONED TO ALLOW  
32 THE INCLUSION OF SCHOOLS, COLLEGES AND UNIVERSITIES, MILITARY  
33 INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND SEWER  
34 PROJECTS, GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES,  
35 RECREATION AREAS, PARKS, AND CEMETERIES.  
36

37 EE. "INTERMITTENT STREAM" MEANS A STREAM IN WHICH SURFACE WATER  
38 IS ABSENT DURING A PART OF THE YEAR AS SHOWN ON THE MOST  
39 RECENT 7.5 MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE  
40 UNITED STATES GEOLOGIC SURVEY OR AS DEFINED IN COMAR 26.23.01.01  
41 AND CONFIRMED BY FIELD VERIFICATION.  
42  
43

1 FF. "LANDSCAPING PLAN" MEANS A PLAN:  
2

- 3 1. DRAWN TO SCALE, SHOWING DIMENSIONS AND DETAILS FOR  
4 REFORESTING AN AREA AT LEAST 35 FEET WIDE AND COVERING  
5 2,500 SQUARE FEET OR GREATER IN SIZE;  
6  
7 2. USING NATIVE OR INDIGENOUS PLANTS WHEN APPROPRIATE; AND  
8  
9 3. WHICH IS MADE PART OF AN APPROVED FOREST CONSERVATION  
10 PLAN.  
11

12 GG. "LINEAR PROJECT" MEANS A PROJECT WHICH:  
13

- 14 1. IS ELONGATED WITH NEARLY PARALLEL SIDES;  
15  
16 2. IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC SERVICE  
17 NOT OTHERWISE CONTAINED IN AN APPLICATION FOR SUBDIVISION,  
18 SUCH AS ELECTRICITY, GAS, WATER, SEWER, COMMUNICATIONS,  
19 TRAINS, AND VEHICLES; AND  
20  
21 3. MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED  
22 BOUNDARIES, OR ESTABLISHED EASEMENT RIGHTS.  
23

24 HH. "LOCAL AGENCY" MEANS EACH UNIT IN THE EXECUTIVE, LEGISLATIVE,  
25 OR JUDICIAL BRANCH OF A COUNTY OR MUNICIPAL GOVERNMENT,  
26 INCLUDING AN OFFICE OR DEPARTMENT.  
27

28 II. "LOT" MEANS A UNIT OF LAND, THE BOUNDARIES OF WHICH HAVE BEEN  
29 ESTABLISHED BY SUBDIVISION OF A LARGER PARCEL, AND WHICH WILL  
30 NOT BE THE SUBJECT OF FURTHER SUBDIVISION, AS DEFINED BY NATURAL  
31 RESOURCES ARTICLE, §5-1601, ANNOTATED CODE OF MARYLAND AND THIS  
32 CHAPTER, WITHOUT AN APPROVED FOREST STAND DELINEATION AND  
33 FOREST CONSERVATION PLAN.  
34

35 JJ. "MAINTENANCE AGREEMENT" MEANS THE SHORT-TERM MANAGEMENT  
36 AGREEMENT ASSOCIATED WITH AFFORESTATION OR REFORESTATION  
37 PLANS REQUIRED UNDER NATURAL RESOURCES ARTICLE §5-1605,  
38 ANNOTATED CODE OF MARYLAND AND THIS CHAPTER.  
39

40 KK. "MEDIUM DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR  
41 DENSITIES GREATER THAN 1 DWELLING UNIT PER 5 ACRES AND LESS  
42 THAN OR EQUAL TO 1 DWELLING UNIT PER ACRE, INCLUDING BOTH  
43 EXISTING AND PLANNED DEVELOPMENT AND THEIR ASSOCIATED



---

1           INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER  
2           SERVICE.

3  
4       LL. "MINOR DEVELOPMENT PROJECT" MEANS A PROJECT:

- 5  
6           1. ON LESS THAN 5 ACRES OF LAND CONTAINING NOT MORE THAN  
7           FOUR LOTS PER ACRE; OR  
8  
9           2. SUBSTANTIVELY SIMILAR AS DEFINED BY THE DEPARTMENT AND  
10          APPROVED BY THE STATE.

11  
12       MM. "MIXED USE DEVELOPMENT" MEANS A SINGLE, HIGH DENSITY  
13       DEVELOPMENT PROJECT WHICH INCLUDES TWO OR MORE TYPES OF USES,  
14       MORE SPECIFICALLY DESCRIBED AND DELINEATED IN CITY CODE  
15       SECTION 21.48.030, TABLES OF USES.

16  
17       NN. "NATURAL REGENERATION" MEANS THE NATURAL ESTABLISHMENT OF  
18       TREES AND OTHER VEGETATION WITH AT LEAST 400 WOODY, FREE-TO-  
19       GROW SEEDLINGS PER ACRE, WHICH ARE CAPABLE OF REACHING A  
20       HEIGHT OF AT LEAST 20 FEET AT MATURITY.

21  
22       OO. "NET TRACT AREAS" MEANS:

- 23  
24           1. EXCEPT IN AGRICULTURE AND RESOURCE AREAS, THE TOTAL AREA  
25           OF A SITE, INCLUDING BOTH FORESTED AND NONFORESTED AREAS,  
26           TO THE NEAREST 1/10 ACRE, REDUCED BY THAT AREA WHERE  
27           FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE  
28           OR PROGRAM;  
29  
30           2. IN AGRICULTURE AND RESOURCE AREAS THE PART OF THE TOTAL  
31           TRACT FOR WHICH LAND USE WILL BE CHANGED OR WILL NO  
32           LONGER BE USED FOR PRIMARILY AGRICULTURAL ACTIVITIES,  
33           REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED  
34           BY ANOTHER LOCAL ORDINANCE OR PROGRAM; AND  
35  
36           3. FOR A LINEAR PROJECT:  
37  
38           i. THE AREA OF A RIGHT-OF-WAY WIDTH, NEW ACCESS ROADS,  
39           AND STORAGE; OR  
40  
41           ii. THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION  
42           FOR SEDIMENT AND EROSION CONTROL APPROVAL OR IN A  
43           CAPITAL IMPROVEMENTS PROGRAM PROJECT DESCRIPTION.

1  
2 PP. NONTIDAL WETLANDS.  
3

4 1. "NONTIDAL WETLANDS" MEANS AN AREA THAT IS:  
5

- 6 i. INUNDATED OR SATURATED BY SURFACE OR GROUNDWATER  
7 AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT,  
8 AND UNDER NORMAL CONDITIONS DOES SUPPORT, A  
9 PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE  
10 IN SATURATED SOIL CONDITIONS, COMMONLY KNOWN AS  
11 HYDROPHYTIC VEGETATION; AND  
12  
13 ii. CONSIDERED A NONTIDAL WETLAND IN ACCORDANCE WITH  
14 THE PUBLICATION KNOWN AS THE "FEDERAL MANUAL FOR  
15 IDENTIFYING AND DELINEATING JURISDICTIONAL WETLAND,"  
16 PUBLISHED IN 1989 AND AS MAY BE AMENDED AND  
17 INTERPRETED BY THE U.S. ENVIRONMENTAL PROTECTION  
18 AGENCY.  
19

20 2. "NONTIDAL WETLANDS" DOES NOT INCLUDE TIDAL WETLANDS  
21 REGULATED UNDER NATURAL RESOURCES ARTICLE, TITLE 9,  
22 ANNOTATED CODE OF MARYLAND.  
23

24 QQ. "OFFSITE" MEANS OUTSIDE OF THE LIMITS OF THE AREA ENCOMPASSED  
25 BY THE TRACT.  
26

27 RR. "ONSITE" MEANS WITHIN THE LIMITS OF THE AREA ENCOMPASSED BY  
28 THE TRACT, INCLUDING AN AREA CLASSIFIED AS A 100-YEAR FLOODPLAIN.  
29

30 SS. "100-YEAR FLOOD" MEANS A FLOOD WHICH HAS ONE PERCENT CHANCE  
31 OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. EXCEPT FOR  
32 CLASS III WATERS (NATURAL TROUT STREAMS), A BODY OF WATER WITH  
33 A WATERSHED LESS THAN 400 ACRES IS EXCLUDED.  
34

35 TT. "100-YEAR FLOODPLAIN" MEANS AN AREA ALONG OR ADJACENT TO A  
36 STREAM OF BODY OF WATER, EXCEPT TIDAL WATERS, THAT IS CAPABLE  
37 OF STORING OR CONVEYING FLOODWATERS DURING A 100-YEAR  
38 FREQUENCY STORM EVENT, OR A 100-YEAR FLOOD.  
39

40 UU. "PERENNIAL STREAM" MEANS A STREAM CONTAINING SURFACE WATER  
41 THROUGHOUT AN AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST  
42 RECENT 7.5 MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE

1 UNITED STATES GEOLOGIC SURVEY, OR AS DEFINED IN COMAR 26.23.01.01  
2 AND CONFIRMED BY FIELD VERIFICATION.  
3

4 VV. "PERSON" MEANS THE FEDERAL GOVERNMENT, THE STATE, A COUNTY,  
5 MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE  
6 STATE, OR ANY OF THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE,  
7 GUARDIAN, EXECUTOR, ADMINISTRATOR, FIDUCIARY, OR  
8 REPRESENTATIVE OF ANY KIND, OR ANY PARTNERSHIP, FIRM,  
9 ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR  
10 AFFILIATES, OR ANY OTHER ENTITY.  
11

12 WW. "PLANNED UNIT DEVELOPMENT" OR "PLANNED DEVELOPMENT" MEANS  
13 A DEVELOPMENT COMPRISED OF A COMBINATION OF LAND USES OR  
14 VARYING INTENSITIES OF THE SAME LAND USE IN ACCORDANCE WITH AN  
15 INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE DESIGN  
16 APPROVED BY THE CITY WITH AT LEAST TWENTY PERCENT OF THE LAND  
17 PERMANENTLY DEDICATED TO OPEN SPACE IN RESIDENTIAL PLANNED  
18 DEVELOPMENTS AND AT LEAST FIVE PERCENT OF THE LAND  
19 PERMANENTLY DEDICATED TO OPEN SPACE IN COMMERCIAL, MIXED USE  
20 AND OTHER PLANNED DEVELOPMENTS.  
21

22 XX. "PROJECT PLAN" MEANS A CONSTRUCTION, GRADING, OR SEDIMENT  
23 CONTROL ACTIVITY ON AN AREA OF 40,000 SQUARE FEET OR GREATER BY  
24 A LOCAL AGENCY OR A "SITE DESIGN PLAN" AS SPECIFIED IN CITY CODE  
25 SECTION 21.22.020.  
26

27  
28 YY. "PUBLIC UTILITY" MEANS ANY:

- 29  
30 1. TRANSMISSION LINE OR ELECTRIC GENERATING STATION; OR  
31  
32 2. WATER, SEWER, ELECTRIC, GAS, TELEPHONE, OR TELEVISION CABLE  
33 SERVICE LINE.  
34

35 ZZ. "REFORESTATION" OR "REFORESTED" MEANS THE:

- 36  
37 1. CREATION OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES  
38 AND OTHER WOODY PLANTS CONTAINING AT LEAST 100 LIVE  
39 TREES PER ACRE WITH AT LEAST 50 PERCENT OF THOSE TREES  
40 HAVING THE POTENTIAL OF ATTAINING A TWO INCH OR GREATER  
41 DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND, WITHIN  
42 SEVEN YEARS; OR  
43

1           2. ESTABLISHMENT OF A FOREST ACCORDING TO PROCEDURES SET  
2           FORTH IN THE FOREST CONSERVATION TECHNICAL MANUAL.

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

7  
8           4. FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION  
9           LINES MAY CONSIST OF A BIOLOGICAL COMMUNITY DOMINATED  
10          BY TREES AND WOODY SHRUBS WITH NO MINIMUM HEIGHT OR  
11          DIAMETER CRITERIA.

12  
13       AAA. "REGULATED ACTIVITY" MEANS ANY OF THE FOLLOWING ACTIVITIES,  
14       WHEN THAT ACTIVITY OCCURS ON A UNIT OF LAND WHICH IS 40,000  
15       SQUARE FEET OR GREATER:

- 16           1. SUBDIVISION;  
17  
18           2. GRADING;  
19  
20           3. AN ACTIVITY THAT REQUIRES A SEDIMENT CONTROL PERMIT;  
21  
22           4. PROJECT PLAN; OR  
23  
24           5. A PLANNED DEVELOPMENT

25  
26  
27       BBB. "RETENTION" MEANS THE DELIBERATE HOLDING AND PROTECTION OF  
28       EXISTING TREES, SHRUBS, OR PLANTS ON THE SITE ACCORDING TO  
29       ESTABLISHED STANDARDS AS PROVIDED IN THE FOREST CONSERVATION  
30       TECHNICAL MANUAL.

31  
32       CCC. "SEDIMENT CONTROL PLAN" MEANS THE AUTHORIZATION OF AN  
33       ACTIVITY REGULATED UNDER A SEDIMENT CONTROL PLAN AS PROVIDED  
34       IN.

35  
36       DDD. "SEEDLING" MEANS AN UNBRANCHED WOODY PLANT, LESS THAN 24  
37       INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ½ INCH  
38       MEASURED AS 2 INCHES ABOVE THE ROOT COLLAR.

39  
40       EEE. "SELECTIVE CLEARING" MEANS THE CAREFUL AND PLANNED REMOVAL  
41       OF TREES, SHRUBS, AND PLANTS USING SPECIFIC STANDARDS AND  
42       PROTECTION MEASURES UNDER AN APPROVED FOREST CONSERVATION  
43       PLAN.

1  
2 FFF. "STEEP SLOPE" MEANS A SLOPE OF 15% OR GREATER.  
3

4 GGG. "STREAM BUFFER" MEANS ALL LANDS LYING WITHIN 50 FEET,  
5 MEASURED FROM THE TOP OF EACH NORMAL BANK OF A PERENNIAL OR  
6 INTERMITTENT STREAM.  
7

8 HHH. "SUBDIVISION" MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR  
9 MORE LOTS OF PARCELS FOR THE PURPOSE, WHETHER IMMEDIATE OR  
10 FUTURE, OF TRANSFER OF OWNERSHIP, SALE, LEASE, OR DEVELOPMENT.  
11

12 III. "STREAM RESTORATION"  
13

14 JJJ. "TRACT" MEANS PROPERTY OR UNIT OF LAND SUBJECT TO AN  
15 APPLICATION FOR A GRADING OR SEDIMENT CONTROL PERMIT,  
16 SUBDIVISION APPROVAL, PROJECT PLAN APPROVAL, OR AN AREA OF  
17 LAND THAT IS 40,000 SQUARE FEET OR GREATER.  
18

19 KKK. "TRACT FOR A PLANNED UNIT DEVELOPMENT" MEANS THE ENTIRE  
20 PROPERTY SUBJECT TO A PLANNED UNIT DEVELOPMENT."  
21

22 LLL. "TREE" MEANS A LARGE, BRANCHED WOODY PLANT HAVING ONE OR  
23 SEVERAL SELF-SUPPORTING STEMS OR TRUNKS THAT REACH A HEIGHT  
24 OF AT LEAST 20 FEET AT MATURITY.  
25

26 MMM. VARIANCE.  
27

28 1. "VARIANCE" MEANS AN EXEMPTION GRANTED TO A PERSON WITH  
29 THE OWNERSHIP INTEREST IN A TRACT FROM ONE OR MORE  
30 REQUIREMENTS OF THIS CHAPTER.  
31

32 2. "VARIANCE" DOES NOT MEAN A ZONING VARIANCE.  
33

34 NNN. "WATERSHED" MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED  
35 AS A SUB-BASIN IN WATER QUALITY REGULATIONS ADOPTED BY THE  
36 MARYLAND DEPARTMENT OF THE ENVIRONMENT UNDER COMAR  
37 26.08.02.08.  
38

39 OOO. "WHIP" MEANS AN UNBRANCHED WOODY PLANT GREATER THAN 24  
40 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ONE INCH  
41 MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.  
42

43 **SECTION 21.71.030 – APPLICATION.**

1  
2 A. THIS CHAPTER IS APPLICABLE TO:  
3

- 4 1. A PERSON MAKING APPLICATIONS FOR A SUBDIVISION, PROJECT  
5 PLAN, GRADING, SEDIMENT CONTROL, PLANNED DEVELOPMENT,  
6 SPECIAL EXCEPTION OR SITE PLAN APPROVAL ON UNITS OF LAND  
7 40,000 SQUARE FEET OR GREATER.  
8  
9 2. A PUBLIC UTILITY NOT EXEMPT UNDER SUBSECTION (B)(5) AND (6)  
10 OF THIS SECTION;  
11  
12 3. A UNIT OF COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING  
13 PUBLIC UTILITY OR PUBLIC WORKS PROJECT, MAKING APPLICATION  
14 FOR A SUBDIVISION, PROJECT PLAN, GRADING, OR SEDIMENT  
15 CONTROL APPROVAL ON AREAS 40,000 SQUARE FEET OR GREATER.  
16

17 B. THIS CHAPTER DOES NOT APPLY TO:  
18

- 19 1. HIGHWAY CONSTRUCTION ACTIVITIES UNDER NATURAL  
20 RESOURCES ARTICLE, §5-103, ANNOTATED CODE OF MARYLAND;  
21  
22 2. AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA  
23 PROTECTION LAW, NATURAL RESOURCES ARTICLE, §§8-1801---8-1817,  
24 ANNOTATED CODE OF MARYLAND, INCLUDING THOSE AREAS INTO  
25 WHICH CRITICAL AREA FOREST PROTECTION MEASURES HAVE  
26 BEEN EXTENDED UNDER NATURAL RESOURCES ARTICLE, §5-1602(C),  
27 ANNOTATED CODE OF MARYLAND;  
28  
29 3. AGRICULTURAL ACTIVITIES NOT RESULTING IN A CHANGE IN LAND  
30 USE CATEGORY, INCLUDING AGRICULTURAL SUPPORT BUILDING  
31 AND OTHER RELATED STRUCTURES BUILT USING ACCEPTED BEST  
32 MANAGEMENT PRACTICES, EXCEPT THAT A PERSON ENGAGING IN  
33 AN AGRICULTURAL ACTIVITY CLEARING 40,000 SQUARE FEET OR  
34 GREATER OF FOREST WITHIN A ONE YEAR PERIOD, MAY NOT  
35 RECEIVE AN AGRICULTURAL EXEMPTION, UNLESS THE PERSON  
36 FILES A DECLARATION OF INTENT AS PROVIDED FOR IN  
37 SUBSECTION(C) OF THIS SECTION WHICH INCLUDES:  
38  
39 i. A STATEMENT THAT THE LANDOWNER OR LANDOWNER'S  
40 AGENT WILL PRACTICE AGRICULTURE ON THAT PORTION OF  
41 THE PROPERTY FOR FIVE YEARS FROM THE DATE OF THE  
42 DECLARATION; AND  
43

1                   ii. A SKETCH OF THE PROPERTY WHICH SHOWS THE AREAS TO  
2                   BE CLEARED;

3  
4           4. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY  
5           LICENSED UNDER PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208  
6           OR 7-205, ANNOTATED CODE OF MARYLAND, OR LAND FOR  
7           ELECTRIC GENERATING STATIONS LICENSED UNDER PUBLIC  
8           UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205, ANNOTATED CODE  
9           OF MARYLAND, IF:

10  
11                   i. REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND  
12                   NECESSITY HAVE BEEN ISSUED IN ACCORDANCE WITH  
13                   NATURAL RESOURCES ARTICLE, §5-1603(F), ANNOTATED CODE  
14                   OF MARYLAND; AND

15  
16                   ii. CUTTING OR CLEARING OF THE FOREST IS CONDUCTED TO  
17                   MINIMIZE THE LOSS OF FOREST;

18  
19           5. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC  
20           UTILITY RIGHTS-OF-WAY LICENSED UNDER PUBLIC UTILITY  
21           COMPANIES, §§7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF  
22           MARYLAND;

23  
24           6. EXCEPT FOR A PUBLIC UTILITY SUBJECT TO SUBSECTION (B)(5) OF  
25           THIS SECTION, ROUTINE MAINTENANCE OR EMERGENCY REPAIRS  
26           OF A PUBLIC UTILITY RIGHT-OF-WAY IF:

27  
28                   i. THE RIGHT-OF-WAY EXISTED BEFORE THE EFFECTIVE DATE  
29                   OF THIS SECTION; OR

30  
31                   ii. THE RIGHT-OF-WAY'S INITIAL CONSTRUCTION WAS  
32                   APPROVED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

33  
34           7. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN  
35           EXISTING SINGLE LOT OF A SIZE OF RECORD AT THE TIME OF  
36           APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE EXEMPTED  
37           UNDER THIS SECTION, IF THE ACTIVITY:

38  
39                   i. DOES NOT RESULT IN THE CUMULATIVE CUTTING, CLEARING,  
40                   OR GRADING OF MORE THAN 20,000 SQUARE FEET OF FOREST;

41  
42                   ii. DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING  
43                   OF A FOREST THAT IS SUBJECT TO THE REQUIREMENTS OF A

1 PREVIOUS FOREST CONSERVATION PLAN APPROVED UNDER  
2 THIS SECTION; AND  
3

4 iii. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH  
5 THE DEPARTMENT, AS PROVIDED IN SUBSECTION (C) OF THIS  
6 SECTION, STATING THAT THE LOT WILL NOT BE THE SUBJECT  
7 OF A REGULATED ACTIVITY WITHIN FIVE YEARS OF THE  
8 CUTTING, CLEARING, OR GRADING OF FOREST;  
9

10 8. AN ACTIVITY REQUIRED FOR THE PURPOSE OF CONSTRUCTING A  
11 DWELLING HOUSE INTENDED FOR THE USE OF THE OWNER, OR A  
12 CHILD OF THE OWNER, IF THE ACTIVITY:  
13

14 i. DOES NOT RESULT IN CUTTING, CLEARING, OR GRADING OF  
15 MORE THAN 20,000 SQUARE FEET OF FOREST; AND  
16

17 ii. IS THE SUBJECT OF A DECLARATION OF INTENT FILED WITH  
18 THE DEPARTMENT, AS PROVIDED FOR IN SUBSECTION (C) OF  
19 THIS SECTION, WHICH STATES THAT A TRANSFER OF  
20 OWNERSHIP MAY RESULT IN A LOSS OF EXEMPTION.  
21

22 9. A PRELIMINARY PLAN OF SUBDIVISION OR A GRADING OR  
23 SEDIMENT CONTROL PLAN APPROVED BEFORE THE EFFECTIVE  
24 DATE OF THIS CHAPTER;  
25

26 10. A PLANNED UNIT DEVELOPMENT, PRIOR TO THE EFFECTIVE DATE  
27 OF THIS CHAPTER, HAS:  
28

29 i. MET ALL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT  
30 APPROVAL; AND  
31

32 ii. OBTAINED DEVELOPMENT PLAN APPROVAL FROM THE  
33 DEPARTMENT;  
34

35 11. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD,  
36 OR OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A  
37 TRANSFER OF TITLE, OF A PORTION OF A LOT OF PARCEL, IF:  
38

39 i. THE TRANSFER DOES NOT INVOLVE A CHANGE IN LAND USE,  
40 OR NEW DEVELOPMENT OR REDEVELOPMENT, WITH  
41 ASSOCIATED LAND-DISTURBING ACTIVITIES; AND  
42



- 1                   ii. BOTH THE GRANTOR AND GRANTEE FILE A DECLARATION OF  
2                   INTENT, AS PROVIDED FOR IN SUBSECTION (C) OF THIS  
3                   SECTION.  
4

5           12. AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA  
6           PROTECTION LAW, NATURAL RESOURCES ARTICLE, §§8-1801—8-1817,  
7           ANNOTATED CODE OF MARYLAND, INCLUDING BUT NOT LIMITED  
8           TO THOSE AREAS UNTO WHICH CRITICAL AREA FOREST  
9           PROTECTION MEASURES HAVE BEEN EXTENDED PURSUANT TO THE  
10           NATURAL RESOURCES ARTICLE, §5-1602(C), ANNOTATED CODE OF  
11           MARYLAND.  
12

13   C. DECLARATION OF INTENT.  
14

- 15           1. THE PURPOSE OF THE DECLARATION OF INTENT IS TO VERIFY THAT  
16           THE PROPOSED ACTIVITY IS EXEMPT UNDER NATURAL RESOURCES  
17           ARTICLE, §§5-103 AND 5-1601—5-1612, ANNOTATED CODE OF  
18           MARYLAND, AND THIS CHAPTER.  
19  
20           2. A PERSON SEEKING AN EXEMPTION UNDER SUBSECTION  
21           (B)(3),(4),(8),(11), AND (14) OF THIS CHAPTER SHALL FILE A  
22           DECLARATION OF INTENT WITH THE DEPARTMENT.  
23  
24           3. THE DECLARATION OF INTENT IS EFFECTIVE FOR FIVE YEARS.  
25  
26           4. THE EXISTENCE OF A DECLARATION OF INTENT DOES NOT  
27           PRECLUDE ANOTHER EXEMPTED ACTIVITY ON THE PROPERTY  
28           SUBJECT TO A DECLARATION OF INTENT, IF THE ACTIVITY:  
29  
30                   i. DOES NOT CONFLICT WITH THE PURPOSE OF ANY EXISTING  
31                   DECLARATION OF INTENT; AND  
32  
33                   ii. COMPLIES WITH THE APPLICABLE REQUIREMENTS FOR AN  
34                   EXEMPTED ACTIVITY.  
35  
36           5. IF A REGULATED ACTIVITY ON THE AREA COVERED BY THE  
37           DECLARATION OF INTENT OCCURS WITHIN FIVE YEARS OF THE  
38           EFFECTIVE DATE OF THE DECLARATION OF INTENT:  
39  
40                   i. THERE SHALL BE AN IMMEDIATE LOSS OF EXEMPTION; OR  
41  
42                   ii. THERE MAY BE A NONCOMPLIANCE ACTION TAKEN BY THE  
43                   DEPARTMENT, AS APPROPRIATE, UNDER THIS CHAPTER.

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31
6. AN APPLICANT MAY APPLY FOR A REGULATED ACTIVITY ON THAT AREA OF THE PROPERTY NOT COVERED UNDER THE DECLARATION OF INTENT IF THE REQUIREMENTS OF THIS CHAPTER ARE SATISFIED.
  7. THE DEPARTMENT MAY REQUIRE A PERSON FAILING TO FILE A DECLARATION OF INTENT OF ROUND IN NONCOMPLIANCE WITH A DECLARATION OF INTENT TO:
    - i. MEET THE RETENTION, AFFORESTATION, AND REFORESTATION REQUIREMENTS ESTABLISHED IN SECTION 7.21.030 THROUGH SECTION 7.21.160 OF THIS CHAPTER.
    - ii. PAY A NONCOMPLIANCE FEE OF THIRTY CENTS PER SQUARE FOOT OF FOREST CUT OR CLEARED UNDER THE DECLARATION OF INTENT;
    - iii. BE SUBJECT TO OTHER ENFORCEMENT ACTIONS APPROPRIATE UNDER NATURAL RESOURCES ARTICLE, §§5-1601—5-1612, ANNOTATED CODE OF MARYLAND AND THIS CHAPTER; OR
    - iv. FILE A DECLARATION OF INTENT WITH THE DEPARTMENT.
  8. IN ITS DETERMINATION OF APPROPRIATE ENFORCEMENT ACTION, THE DEPARTMENT MAY CONSIDER WHETHER FAILURE TO FILE A DECLARATION OF INTENT BY A PERSON REQUIRED TO FILE IS A KNOWING VIOLATION OF THIS CHAPTER.

32 **SECTION 21.71.040 – TECHNICAL MANUAL.**

- 33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43
- A. THE DIRECTOR OF THE DEPARTMENT HAS THE AUTHORITY, AFTER CONSULTATION WITH THE DIRECTOR OF DNEP, TO PUBLISH A FOREST CONSERVATION TECHNICAL MANUAL, TO AMEND IT FROM TIME TO TIME, AND TO USE REASONABLE DISCRETION IN APPLYING THE GUIDELINES SET FORTH IN THE MANUAL. UNTIL SUCH TIME THAT THE DIRECTOR PUBLISHES A FOREST CONSERVATION TECHNICAL MANUAL, THE DIRECTOR HAS THE AUTHORITY TO USE REASONABLE DISCRETION IN APPLYING THE GUIDELINES SET FOR IN THE STATE OF MARYLAND FOREST CONSERVATION TECHNICAL MANUAL. ANY CHANGES, MODIFICATIONS, OR REVISIONS TO THE CITY FOREST CONSERVATION TECHNICAL MANUAL

1 SHALL BECOME EFFECTIVE UPON THE REVIEW, APPROVAL, AND  
2 RATIFICATION OF SUCH CHANGED BY THE CITY COUNCIL.  
3

4 B. THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE CITY COUNCIL  
5 WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER, A FOREST  
6 CONSERVATION TECHNICAL MANUAL, WHICH SHALL PROVIDE  
7 SPECIFICATIONS CONSISTENT WITH THIS CHAPTER AND SHALL  
8 OTHERWISE INCLUDE, WITHOUT LIMITATION:  
9

10 1. ANY METHODS THE DEPARTMENT APPROVES TO PROTECT  
11 RETAINED FORESTS AND TREES DURING CONSTRUCTION;  
12

13 2. A DEFINITION OF "HEALTHY FORESTS" AS A BIOLOGICAL  
14 COMMUNITY WHERE TREES AND OTHER WOODY PLANTS  
15 DOMINATE AND COVER A LAND AREA OF 10,000 SQUARE FEET OR  
16 GREATER, WITH AT LEAST 70% CANOPY CLOSURE, ADEQUATE TREE  
17 STOCKING, NOTICEABLE TREE RECRUITMENT (INCLUDING MID-TO-  
18 LATE SUCCESSIONAL SPECIES), LESS THAN 35% AREA COVERAGE OF  
19 INVASIVE SPECIES, AND RELATIVELY FREE OF INSECT, DISEASE,  
20 STORM, AND OTHER DAMAGE (LESS THAN 45% CANOPY  
21 MORTALITY), AS THE DEPARTMENT SHALL SO DETERMINE;  
22

23 3. A REQUIREMENT THAT ENVIRONMENTAL FEATURES MAPS OR  
24 NATURAL RESOURCES INVENTORY SHALL INCLUDE TOPOGRAPHIC  
25 CONTOURS (AT FOOT INTERVALS), STEEP SLOPES, SOIL  
26 CLASSIFICATIONS (INCLUDING HYDRIC PROPERTIES), "HEALTHY  
27 FORESTS," AND TREES MEASURING THIRTY INCHES OR GREATER  
28 DBH, STREAMS (INTERMITTENT, PERENNIAL, EPHEMERAL), STREAM  
29 BUFFERS, CRITICAL HABITATS, NATURAL DRAINAGE COURSES, AND  
30 WETLANDS AND THEIR BUFFERS.  
31

32 C. GENERAL REQUIREMENTS.  
33

34 1. A PERSON SUBMITTING AN APPLICATION TO THE DEPARTMENT  
35 AFTER THE EFFECTIVE DATE OF THIS CHAPTER FOR APPROVAL OF A  
36 PLANNED DEVELOPMENT SPECIAL EXCEPTION, SUBDIVISION SITE  
37 DESIGN PLAN, OR PROJECT PLAN, OR A GRADING OR SEDIMENT  
38 CONTROL PERMIT, OR WHO HAS SUBMITTED A FOREST STAND  
39 DELINEATION FOR REVIEW, A PRELIMINARY FOREST  
40 CONSERVATION PLAN FOR REVIEW, OR A FINAL FOREST  
41 CONSERVATION PLAN FOR APPROVAL FOR A TRACT OF LAND THAT,  
42 IN ITS EXISTING OR REDEVELOPED STATE, IS 40,000 SQUARE FEET OR  
43 GREATER, SHALL:

- 1  
2 i. SUBMIT TO THE DEPARTMENT A FOREST STAND  
3 DELINEATION AND A PRELIMINARY AND FINAL FOREST  
4 CONSERVATION PLAN FOR THE LOT OR TRACT ON WHICH THE  
5 DEVELOPMENT IS TO BE LOCATED; AND  
6  
7 ii. USE METHODS THE DEPARTMENT APPROVES, AS DETAILED IN  
8 THE FOREST CONSERVATION TECHNICAL MANUAL, TO  
9 PROTECT RETAINED FORESTS AND TREES DURING  
10 CONSTRUCTION. UNTIL SUCH TIME THAT THE CITY  
11 PUBLISHES ITS OWN FOREST CONSERVATION TECHNICAL  
12 MANUAL, THE DEPARTMENT SHALL APPLY THE STANDARDS  
13 SET FORTH IN THE STATE FOREST CONSERVATION  
14 TECHNICAL MANUAL.  
15

16 **SECTION 21.71.050 – LOCAL AGENCY APPLICATION.**

17  
18 IF A LOCAL AGENCY OR PERSON USING STATE FUNDS SUBMITS AN  
19 APPLICATION TO CONDUCT AN ACTIVITY REGULATED BY THIS CHAPTER, THE  
20 PROVISIONS OF COMAR 08.19.04.01(D)-(G) SHALL APPLY.  
21

22 **SECTION 21.71.060 – FOREST STAND DELINEATION.**

23  
24 A. CRITERIA.

- 25  
26 1. A FOREST STAND DELINEATION AND NATURAL RESOURCES  
27 INVENTORY, WHEN REQUIRED, SHALL BE SUBMITTED TO THE  
28 DEPARTMENT PRIOR TO THE INITIAL STAGES OF DEVELOPMENT  
29 PLAN APPROVAL AND PRIOR TO THE SUBMISSION TO THE  
30 DEPARTMENT OF A GRADING OR SEDIMENT CONTROL PERMIT  
31 APPLICATION FOR THE LAND BEING DEVELOPED.  
32  
33 2. THE DELINEATION SHALL BE PREPARED BY A LICENSED FORESTER,  
34 LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL  
35 WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A.  
36  
37 3. THE DELINEATION SHALL BE USED DURING THE PRELIMINARY  
38 REVIEW PROCESS TO DETERMINE THE MOST SUITABLE AND  
39 PRACTICAL AREAS FOR FOREST CONSERVATION AND SHALL  
40 CONTAIN THE FOLLOWING COMPONENTS:  
41

- 1                   i. A TOPOGRAPHIC MAP DELINEATING INTERMITTENT AND  
2                   PERENNIAL STREAMS, AND STEEP SLOPES OVER FIFTEEN  
3                   PERCENT;  
4
- 5                   ii. A SOILS MAP DELINEATING SOILS WITH STRUCTURAL  
6                   LIMITATIONS, HYDRIC SOILS, OR SOILS WITH A SOIL K VALUE  
7                   GREATER THAN 0.35 ON SLOPES OF FIFTEEN PERCENT OR  
8                   MORE;  
9
- 10                  iii. FOREST STAND MAPS INDICATING SPECIES, LOCATION, AND  
11                  SIZE OF TREES AND SHOWING DOMINANT AND CO-DOMINANT  
12                  FOREST TYPES;  
13
- 14                  iv. LOCATION OF 100-YEAR FLOODPLAINS;  
15
- 16                  v. INFORMATION REQUIRED BY THE CITY FOREST  
17                  CONSERVATION TECHNICAL MANUAL; AND  
18
- 19                  vi. OTHER INFORMATION THE DEPARTMENT DETERMINES IS  
20                  NECESSARY TO IMPLEMENT THIS CHAPTER, INCLUDING A  
21                  NONTIDAL WETLANDS PLAN UPON REQUEST.  
22
- 23                  4. WITHIN THREE CALENDAR BUSINESS DAYS AFTER RECEIPT OF A  
24                  FOREST STAND DELINEATION, THE DEPARTMENT SHALL REFER THE  
25                  FOREST STAND DELINEATION TO DNEP FOR REVIEW, AND DNEP  
26                  SHALL POST THE FOREST STAND DELINEATION ON ITS WEBSITE FOR  
27                  AT LEAST FIFTEEN CALENDAR DAYS AND PROVIDE DIRECTIONS AS  
28                  TO HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS,  
29                  TESTIMONY, OR DOCUMENTATION PERTAINING TO THE FOREST  
30                  STAND DELINEATION. THE WEBSITE POSTING REQUIREMENT SHALL  
31                  APPLY TO ANY AMENDMENTS OR REVISIONS TO THE FOREST STAND  
32                  DELINEATION. THE DEPARTMENT AND DNEP SHALL PROMPTLY  
33                  EXCHANGE ALL COMMENTS, TESTIMONY, AND DOCUMENTATION  
34                  RECEIVED FROM THE PUBLIC.  
35
- 36                  5. NO LATER THAN TWENTY CALENDAR DAYS AFTER THE RECEIPT OF  
37                  THE FOREST STAND DELINEATION, DNEP SHALL SENT WRITTEN  
38                  NOTIFICATION TO THE DEPARTMENT WHETHER IT CERTIFIES THAT  
39                  THE FOREST STAND DELINEATION IS COMPLETE AND CORRECT. IF  
40                  SO, THE WRITTEN NOTIFICATION SHALL INDICATE HOW THE  
41                  FOREST STAND DELINEATION IS COMPLETE AND CORRECT AND  
42                  HOW IT MEETS ALL THE REQUIREMENTS OF THIS CHAPTER. THE  
43                  DEPARTMENT SHALL SEND WRITTEN NOTIFICATION OF THE

1 CERTIFICATION TO THE APPLICANT WITHIN 30 DAYS OF RECEIPT OF  
2 THE FOREST STAND DELINEATION.

3  
4 6. IF DNEP DOES NOT CERTIFY A FOREST STAND DELINEATION AS  
5 COMPLETE AND CORRECT, DNEP SHALL SEND WRITTEN  
6 NOTIFICATION TO THE DEPARTMENT TO THIS EFFECT AND  
7 INDICATE THE DEFICIENCIES IN THE FOREST STAND DELINEATION.  
8 THE DEPARTMENT SHALL SEND WRITTEN NOTIFICATION TO THE  
9 APPLICANT OF DNEP'S LACK OF CERTIFICATION AND INDICATE THE  
10 DEFICIENCIES IN THE FOREST STAND DELINEATION, AND OF THE  
11 RIGHT TO RESUBMIT.

12  
13 7. DNEP SHALL POST ITS DIRECTOR'S REVIEW COMMENTS  
14 APPLICABLE TO A FOREST STAND DELINEATION WITHIN TWENTY-  
15 FOUR HOURS OF THEIR REDUCTION TO WRITING. DNEP SHALL ALSO  
16 PROVIDE AN OPPORTUNITY TO THE PUBLIC TO REVIEW AND  
17 COMMENT UPON A FOREST STAND DELINEATION SUBMISSION AND  
18 RETAIN SUCH COMMENTS AS A PART OF EACH APPLICATION  
19 RECORD.

20  
21 8. IF APPROVED BY THE DEPARTMENT, A SIMPLIFIED DELINEATION, A  
22 CONCEPT PLAN OR PLAT, PRELIMINARY PLAT OR PLAN, SEDIMENT  
23 CONTROL PLAN, OR OTHER APPROPRIATE DOCUMENT, VERIFIED BY  
24 A SITE VISIT, IF APPROPRIATE, MAY SUBSTITUTE FOR THE FOREST  
25 STAND DELINEATION IF:

26  
27 i. NO FOREST COVER IS DISTURBED DURING A CONSTRUCTION  
28 ACTIVITY; AND

29  
30 ii. DESIGNATED TO BE UNDER A LONG TERM PROTECTIVE  
31 AGREEMENT.

32  
33 9. THE DEPARTMENT SHALL CONSIDER A SIMPLIFIED FOREST STAND  
34 DELINEATION, OR OTHER SUBSTITUTE PLAN DESCRIBED IN  
35 SUBSECTION (A)(4) OF THIS SECTION, COMPLETE IF IT INCLUDES:

36  
37 i. ALL REQUIREMENTS UNDER SUBSECTION (A)(3)(I),(II),(IV),  
38 AND (V) OF THIS SECTION;

39  
40 ii. A MAP SHOWING EXISTING FOREST COVER AS VERIFIED BY  
41 FIELD INSPECTION; AND

42  
43 iii. OTHER INFORMATION REQUIRED BY THIS CHAPTER.

1  
2 10. AN APPROVED FOREST STAND DELINEATION MAY REMAIN IN  
3 EFFECT FOR A PERIOD NOT LONGER THAN FIVE YEARS.

4  
5 11. TIME FOR SUBMITTAL.

6  
7 i. WITHIN THIRTY CALENDAR DAYS AFTER TRANSMISSION OF  
8 THE FOREST STAND DELINEATION TO DNEP FOR REVIEW AND  
9 CERTIFICATION, THE DEPARTMENT SHALL NOTIFY THE  
10 APPLICANT IN WRITING (BY EMAIL OR POSTAL LETTER)  
11 WHETHER THE FOREST STAND DELINEATION IS COMPLETE  
12 AND CORRECT. IN THE EVENT A FOREST STAND DELINEATION  
13 IS NOT COMPLETE AND CORRECT, DNEP SHALL PROVIDE TO  
14 THE DEPARTMENT AND THE DEPARTMENT SHALL TRANSMIT  
15 TO THE APPLICANT A DETAILED AND SPECIFIC LISTING OF  
16 ANY ALLEGED DEFICIENCIES AND REFERENCE TO OPTIONS  
17 AVAILABLE TO THE APPLICANT TO ADDRESS THE  
18 DEFICIENCIES.

19  
20 ii. IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT IN  
21 WRITING WITHIN THIRTY DAYS, THE DELINEATION SHALL BE  
22 TREATED AS COMPLETE AND CORRECT.

23  
24 iii. THE DEPARTMENT MAY REQUIRE FURTHER INFORMATION OR  
25 PROVIDE FOR AN ADDITIONAL FIFTEEN CALENDAR DAYS  
26 UNDER EXTENUATING CIRCUMSTANCES. THE DEPARTMENT  
27 SHALL PROVIDE AN APPLICANT WITH WRITTEN NOTICE  
28 DETAILING ADDITIONAL INFORMATION REQUIRED OR THE  
29 NATURE OF THE EXTENUATING CIRCUMSTANCES  
30 NECESSITATING THE FIFTEEN CALENDAR DAY EXTENSION.

31  
32 **SECTION 21.71.070 – FOREST CONSERVATION PLAN.**

33  
34 A. GENERAL PROVISIONS.

- 35  
36 1. IN DEVELOPING A FOREST CONSERVATION PLAN, THE APPLICANT  
37 SHALL GIVE PRIORITY TO TECHNIQUES FOR RETAINING EXISTING  
38 FOREST ON THE SITE.  
39  
40 2. IF EXISTING FOREST ON THE SITE SUBJECT TO A FOREST  
41 CONSERVATION PLAN CANNOT BE RETAINED, THE APPLICANT  
42 SHALL DEMONSTRATE TO THE SATISFACTION OF THE  
43 DEPARTMENT:

- 1
- 2 i. HOW TECHNIQUES FOR FOREST RETENTION HAVE BEEN
- 3 EXHAUSTED;
- 4
- 5 ii. WHY THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED
- 6 IN NATURAL RESOURCES ARTICLE, §5-1607(C)(1), ANNOTATED
- 7 CODE OF MARYLAND, CANNOT BE LEFT IN AN UNDISTURBED
- 8 CONDITION:
- 9
- 10 a. IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT
- 11 BE LEFT UNDISTURBED, HOW THE SEQUENCE FOR
- 12 AFFORESTATION OR REFORESTATION WILL BE
- 13 FOLLOWED IN COMPLIANCE WITH NATURAL
- 14 RESOURCES ARTICLE, §5-1607, ANNOTATED CODE OF
- 15 MARYLAND;
- 16
- 17 b. WHERE ON THE SITE IN PRIORITY AREAS IN
- 18 AFFORESTATION OR REFORESTATION WILL OCCUR IN
- 19 COMPLIANCE WITH NATURAL RESOURCES ARTICLE, §5-
- 20 1607, ANNOTATED CODE OF MARYLAND; AND
- 21
- 22 iii. HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND
- 23 PRIORITY AREAS SPECIFIED IN NATURAL RESOURCES
- 24 ARTICLE, §5-1607(C)(2), ANNOTATED CODE OF MARYLAND,
- 25 QUALIFIES FOR A VARIANCE.
- 26
- 27 3. THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF
- 28 THE DEPARTMENT, AFTER CONSULTATION WITH DNEP AND DNEP
- 29 REVIEW AND COMMENT UPON REQUIRED ELEMENTS OF A FOREST
- 30 CONSERVATION PLAN, THAT THE REQUIREMENTS FOR
- 31 AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT
- 32 BE REASONABLY ACCOMPLISHED IF THE APPLICANT PROPOSES TO
- 33 MAKE A PAYMENT INTO THE LOCAL FOREST CONSERVATION FUND
- 34 OR TO PURCHASE CREDITS FROM A FOREST MITIGATION BANK.
- 35
- 36 4. NONTIDAL WETLANDS. A REGULATED ACTIVITY WITHIN THE NET
- 37 TRACT AREA THAT OCCURS WHOLLY OR PARTLY IN AREAS
- 38 REGULATED AS NONTIDAL WETLANDS UNDER ENVIRONMENT
- 39 ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND, IS SUBJECT TO
- 40 BOTH THE NONTIDAL WETLANDS REGULATORY REQUIREMENTS
- 41 AND THE REQUIREMENTS OF THIS CHAPTER, SUBJECT TO THE
- 42 FOLLOWING:
- 43



- 1           i. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING  
2           FOREST IN NONTIDAL WETLANDS THAT IS RETAINED, SHALL  
3           BE COUNTED TOWARDS FOREST CONSERVATION  
4           REQUIREMENTS UNDER THIS CHAPTER;  
5
- 6           ii. FOR THE PURPOSE OF CALCULATING REFORESTATION  
7           MITIGATION UNDER THIS SECTION, A FORESTED NONTIDAL  
8           WETLAND PERMITTED TO BE CUT OR CLEARED AND  
9           REQUIRED TO BE MITIGATED UNDER ENVIRONMENT ARTICLE,  
10          TITLE 9, ANNOTATED CODE OF MARYLAND, SHALL BE SHOWN  
11          ON THE FOREST CONSERVATION PLAN AND SUBTRACTED ON  
12          AN ACRE-FOR-ACRE BASIS FROM THE TOTAL AMOUNT OF  
13          FOREST TO BE CUT OR CLEARED AS PART OF A REGULATED  
14          ACTIVITY;  
15
- 16          iii. NONTIDAL WETLANDS SHALL BE CONSIDERED TO BE  
17          PRIORITY AREAS FOR RETENTION AND REPLACEMENT;  
18
- 19          iv. FORESTED NONTIDAL WETLAND IDENTIFICATION AND  
20          DELINEATION SHOULD BE INCLUDED AT THE EARLIEST  
21          STAGE OF PLANNING TO ASSIST THE APPLICANT IN  
22          AVOIDANCE AND REDUCTION OF IMPACTS TO THE NONTIDAL  
23          WETLANDS AND TO AVOID DELAY IN THE APPROVAL  
24          PROCESS.  
25

26  
27  
28    B. PRELIMINARY FOREST CONSERVATION PLAN.  
29

- 30          1. A PRELIMINARY FOREST CONSERVATION PLAN SHALL BE  
31          PREPARED BY A LICENSED FORESTER, A LICENSED LANDSCAPE  
32          ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE  
33          REQUIREMENTS STATED IN COMAR 08.19.06.01A.  
34
- 35          2. THE PRELIMINARY FOREST CONSERVATION PLAN SHALL:  
36  
37                  i. BE SUBMITTED WITH THE PRELIMINARY PLAN OF  
38                  SUBDIVISION OR PROPOSED PROJECT PLAN;  
39  
40                  ii. INCLUDE THE APPROVED FOREST STAND DELINEATION FOR  
41                  THE SITE;  
42

- 1                   iii. INCLUDE A TABLE THAT LISTS THE PROPOSED VALUES OF  
2                   THE FOLLOWING, IN SQUARE FEET:  
3  
4                   a. NET TRACT AREA,  
5  
6                   b. AREA OF FOREST CONSERVATION REQUIRED, AND  
7  
8                   c. AREA OF FOREST CONSERVATION THAT THE  
9                   APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH  
10                  ONSITE AND OFFSITE AREA;  
11  
12                  iv. INCLUDE A CLEAR GRAPHIC INDICATION OF THE FOREST  
13                  CONSERVATION PROVIDED ON THE SITE DRAWN TO SCALE,  
14                  SHOWING AREAS WHERE RETENTION OF EXISTING FOREST OR  
15                  AFFORESTATION OR REFORESTATION IS PROPOSED;  
16  
17                  v. INCLUDE AN EXPLANATION OF HOW THE PROVISIONS OF  
18                  SUBSECTION (A) OF THIS SECTION HAVE BEEN MET;  
19  
20                  vi. IN THE CASE OF AFFORESTATION OR REFORESTATION,  
21                  INCLUDE A PROPOSED AFFORESTATION OR REFORESTATION  
22                  PLAN;  
23  
24                  vii. INCLUDE A PROPOSED CONSTRUCTION TIMETABLE SHOWING  
25                  THE SEQUENCE OF FOREST CONSERVATION PROCEDURES;  
26  
27                  viii. SHOW THE PROPOSED LIMITS OF DISTURBANCE;  
28  
29                  ix. SHOW PROPOSED STOCKPILE AREAS;  
30  
31                  x. INCORPORATED A PROPOSED TWO YEAR MAINTENANCE  
32                  AGREEMENT THAT SHOWS HOW AREAS DESIGNATED FOR  
33                  AFFORESTATION OR REFORESTATION WILL BE MAINTAINED  
34                  TO ENSURE PROTECTION AND SATISFACTORY  
35                  ESTABLISHMENT; AND  
36  
37                  xi. OTHER INFORMATION THE DEPARTMENT DETERMINES IS  
38                  NECESSARY TO IMPLEMENT THIS CHAPTER.

- 39  
40                  3. WITHIN THREE BUSINESS DAYS AFTER RECEIPT OF A PRELIMINARY  
41                  FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL REFER  
42                  THE PRELIMINARY FOREST CONSERVATION PLAN TO DNEP FOR  
43                  REVIEW AND DNEP SHALL POST THE PRELIMINARY FOREST

1 CONSERVATION PLAN ON THEIR WEBSITE FOR AT LEAST FIFTEEN  
2 CALENDAR DAYS AND PROVIDE DIRECTIONS AS TO HOW THE  
3 PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS, TESTIMONY,  
4 OR DOCUMENTATION PERTAINING TO THE PRELIMINARY FOREST  
5 CONSERVATION PLAN. THE DEPARTMENT AND DNEP SHALL  
6 PROMPTLY EXCHANGE ALL COMMENTS, TESTIMONY, AND  
7 DOCUMENTATION RECEIVED FROM THE PUBLIC. AT LEAST FIVE  
8 CALENDAR DAYS PRIOR TO THE SUBMISSION OF A PROPOSED  
9 PRELIMINARY FOREST CONSERVATION PLAN, THE APPLICANT  
10 SUBMITTING IT SHALL HOLD A PUBLIC MEETING AND MAKE A  
11 PRESENTATION INDICATING IN DETAIL THE ANTICIPATED  
12 CONTENTS OF THE PROPOSED PRELIMINARY FOREST  
13 CONSERVATION PLAN. THE GENERAL PUBLIC AND MEMBERS OF  
14 THE ANNAPOLIS ENVIRONMENTAL COMMISSION, THE  
15 DEPARTMENT, AND DNEP MAY PARTICIPATE IN THE PUBLIC  
16 MEETING.

- 17
- 18 4. NO LATER THAN THIRTY-FIVE CALENDAR DAYS AFTER THE RECEIPT  
19 OF THE PRELIMINARY FOREST CONSERVATION PLAN, DNEP SHALL  
20 SEND WRITTEN NOTIFICATION TO THE DEPARTMENT WHETHER IT  
21 RECOMMENDS APPROVAL OF THE PRELIMINARY FOREST  
22 CONSERVATION PLAN. IF SO, THE WRITTEN NOTIFICATION SHALL  
23 INDICATE HOW THE PRELIMINARY FOREST CONSERVATION PLAN  
24 MEETS ALL REQUIREMENTS OF THIS CHAPTER. IF THE DEPARTMENT  
25 AGREES WITH DNEP, THE DEPARTMENT SHALL SEND WRITTEN  
26 NOTIFICATION OF THE APPROVAL TO THE APPLICANT WITHIN  
27 THIRTY-FIVE DAYS OF RECEIPT OF THE PRELIMINARY FOREST  
28 CONSERVATION PLAN. A PRELIMINARY FOREST CONSERVATION  
29 PLAN THAT HAS BEEN RECOMMENDED FOR APPROVAL BY THE  
30 DEPARTMENT AND DNEP AS FINAL SHALL BE SUBMITTED TO THE  
31 PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS WITH  
32 THE APPLICABLE APPLICATION FOR A DEVELOPMENT PLAN, FOR  
33 FINAL DETERMINATION. IF THE DEPARTMENT DOES NOT AGREE  
34 WITH DNEP'S RECOMMENDATION, THE DEPARTMENT SHALL  
35 OVERRIDE DNEP'S RECOMMENDATION, AND, WITHIN THIRTY-FIVE  
36 DAYS AFTER THE RECEIPT OF THE PRELIMINARY FOREST  
37 CONSERVATION PLAN, RETURN THE PRELIMINARY FOREST  
38 CONSERVATION PLAN TO THE APPLICANT WITH WRITTEN  
39 NOTIFICATION OF THE DISAPPROVAL AND THE REASONS FOR THE  
40 DISAPPROVAL. IN THE EVENT DNEP FINDS THAT THE PRELIMINARY  
41 FOREST CONSERVATION PLAN DOES NOT MEET THE REQUIREMENTS  
42 OF THIS CHAPTER, DNEP SHALL TRANSMIT NOTICE TO THE  
43 DEPARTMENT OF THE REASONS FOR ITS DETERMINATION. IN THE

1 EVENT THE DEPARTMENT DETERMINES THAT THE REASONS FOR  
2 DNEP'S NON-APPROVAL RECOMMENDATION ARE CONSISTENT WITH  
3 THIS CHAPTER, THE DEPARTMENT SHALL SO NOTIFY THE  
4 APPLICANT. UPON RECEIPT OF SUCH NOTICE, AN APPLICANT MAY  
5 RESUBMIT ITS PRELIMINARY FOREST CONSERVATION PLAN  
6 ADDRESSING ALL NOTED DEFICIENCIES. TO THE EXTENT THE  
7 DEPARTMENT DISAGREES WITH DNEP'S REASONS TO NOT  
8 RECOMMEND APPROVAL, THE DEPARTMENT MAY RECOMMEND  
9 APPROVAL OF THE PRELIMINARY FOREST CONSERVATION PLAN  
10 WITHOUT FURTHER REVIEW, PROVIDED THE DEPARTMENT  
11 CREATES AND MAINTAINS A WRITTEN RECORD OF THE REASONS  
12 FOR ITS DECISION.  
13

- 14 5. DURING DIFFERENT STAGES OF THE REVIEW PROCESS, THE  
15 PRELIMINARY FOREST CONSERVATION PLAN MAY BE MODIFIED,  
16 PROVIDED THE DEPARTMENT APPROVES OF THE CHANGES.  
17

18 C. FINAL FOREST CONSERVATION PLAN.  
19

- 20 1. A FINAL FOREST CONSERVATION PLAN SHALL BE PREPARED BY A  
21 LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A  
22 QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS  
23 STATED IN COMAR 08.19.06.01A.  
24

- 25  
26 2. A FINAL FOREST CONSERVATION PLAN SHALL:  
27

- 28 i. BE SUBMITTED PRIOR TO THE FOLLOWING:  
29

30 a. A FINAL SUBDIVISION PLAN,  
31

32 b. A FINAL PROJECT PLAN,  
33

34 c. AN APPLICATION FOR A GRADING PERMIT, OR  
35

36 d. AN APPLICATION FOR A SEDIMENT CONTROL PERMIT;  
37

- 38 ii. SHOW PROPOSED LOCATIONS AND TYPES OF PROTECTIVE  
39 DEVICES TO BE USED DURING CONSTRUCTION ACTIVITIES TO  
40 PROTECT TREES AND FORESTS DESIGNATED FOR  
41 CONSERVATION;  
42

- 1                   iii. IN THE CASE OF AFFORESTATION OR REFORESTATION,  
2                   INCLUDE AN AFFORESTATION OR REFORESTATION PLAN,  
3                   WITH A TIMETABLE AND DESCRIPTION OF NEEDED SITE AND  
4                   SOIL PREPARATION, SPECIES, SIZE, AND SPACING TO BE USED;  
5  
6                   iv. INCORPORATE A BINDING TWO YEAR MAINTENANCE  
7                   AGREEMENT SPECIFIED IN COMAR 08.19.05.01 THAT DETAILS  
8                   HOW THE AREAS DESIGNATED FOR AFFORESTATION OR  
9                   REFORESTATION WILL BE MAINTAINED TO ENSURE  
10                  PROTECTION AND SATISFACTORY ESTABLISHMENT,  
11                  INCLUDING:  
12  
13                   a. WATERING, AND  
14  
15                   b. A REINFORCEMENT PLANTING PROVISION IF SURVIVAL  
16                   RATES FALL BELOW REQUIRED STANDARDS, AS  
17                   PROVIDED IN THE FOREST CONSERVATION TECHNICAL  
18                   MANUAL;  
19  
20                  v. INCORPORATE A LONG-TERM BINDING PROTECTIVE  
21                  AGREEMENT AS SPECIFIED IN COMAR 08.19.05.02 THAT:  
22  
23                   a. PROVIDES PROTECTION FOR AREAS OF FOREST  
24                   CONSERVATION, INCLUDING AREAS OF  
25                   AFFORESTATION, REFORESTATION, AND RETENTION,  
26                   AND  
27  
28                   b. LIMITS USES IN AREAS OF FOREST CONSERVATION TO  
29                   HOSE USES THAT ARE DESIGNATED AND CONSISTENT  
30                   WITH FOREST CONSERVATION, INCLUDING  
31                   RECREATIONAL ACTIVITIES AND FOREST  
32                   MANAGEMENT PRACTICES THAT ARE USED TO  
33                   PRESERVE FOREST;  
34  
35                  vi. INCLUDE THE SUBSTANTIVE ELEMENTS REQUIRED UNDER  
36                  SUBSECTION (B)(2)(II)-(V), (VII)-(IX), AND (XI) OF THIS SECTION,  
37                  AS FINALIZED ELEMENTS OF THE FOREST CONSERVATION  
38                  PLAN; AND  
39  
40                  vii. OTHER INFORMATION THE DEPARTMENT DETERMINES IS  
41                  NECESSARY TO IMPLEMENT THIS CHAPTER.  
42  
43

3. TIME FOR SUBMITTAL.

- 1  
2  
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41  
42
- i. WITHIN FORTY-FIVE CALENDAR DAYS AFTER RECEIPT OF THE FINAL FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING WHETHER THE FOREST CONSERVATION PLAN IS COMPLETE AND ACCEPTABLE.
  - ii. IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT WITHIN FORTY-FIVE CALENDAR DAYS, THE PLAN SHALL BE TREATED AS COMPLETE AND APPROVED.
  - iii. THE DEPARTMENT MAY REQUIRE FURTHER INFORMATION OR EXTEND THE DEADLINE FOR AN ADDITIONAL FIFTEEN CALENDAR DAYS UNDER EXTENUATING CIRCUMSTANCES.
  - iv. AT THE REQUEST OF THE APPLICANT, THE DEPARTMENT MAY EXTEND THE DEADLINE UNDER EXTENUATING CIRCUMSTANCES.
4. THE DEPARTMENT MAY REVOKE AN APPROVED FOREST CONSERVATION PLAN IF IT FINDS THAT:
- i. A PROVISION OF THE PLAN HAS BEEN VIOLATED;
  - ii. APPROVAL OF THE PLAN WAS OBTAINED THROUGH FRAUD, MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT, OMISSION OF A RELEVANT OR MATERIAL FACTOR; OR
  - iii. CHANGES IN THE DEVELOPMENT OR IN THE CONDITION OF THE SITE NECESSITATE PREPARATION OF A NEW OR AMENDED PLAN.
5. THE DEPARTMENT MAY ISSUE A STOP WORK ORDER AGAINST A PERSON WHO VIOLATES A PROVISION OF THIS CHAPTER OR A REGULATION, ORDER, APPROVED FOREST CONSERVATION PLAN, OR MAINTENANCE AGREEMENT.
6. BEFORE REVOKING APPROVAL OF A FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL NOTIFY THE VIOLATOR IN WRITING AND PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT DIRECTOR OR DESIGNEE.

- 1           7. UPON RECEIPT OF THE COMPLETED FOREST CONSERVATION PLAN  
2           AND ANY FURTHER AMENDMENTS OR CHANGES TO THE SAME, THE  
3           DEPARTMENT SHALL IMMEDIATELY POST SAID PLAN,  
4           AMENDMENTS, AND CHANGES ON THE DEPARTMENT'S WEBSITE  
5           FOR A MINIMUM OF FIFTEEN DAYS AND ACCEPT WRITTEN  
6           COMMENTS FROM THE PUBLIC.  
7

8           **SECTION 21.71.080 – AFFORESTATION AND RETENTION.**  
9

- 10           A. AFFORESTATION REQUIREMENT. A PERSON SUBMITTING AN APPLICATION  
11           AFTER THE EFFECTIVE DATE OF THIS CHAPTER FOR SUBDIVISION OR  
12           PROJECT PLAN APPROVAL, A GRADING PERMIT, OR A SEDIMENT CONTROL  
13           PERMIT FOR AN AREA OF LAND OF 40,000 SQUARE FEET OR GREATER,  
14           SHALL:  
15

- 16           1. CONDUCT AFFORESTATION ON THE LOT OR PARCEL IN  
17           ACCORDANCE WITH THE FOLLOWING:  
18

- 19           i. A TRACT HAVING LESS THAN TWENTY PERCENT OF THE NET  
20           TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO  
21           AT LEAST TWENTY PERCENT OF THE NET TRACT AREA FOR  
22           THE FOLLOWING LAND USE CATEGORIES:  
23

24           a. AGRICULTURE AND RESOURCE AREAS, AND

25           b. MEDIUM DENSITY RESIDENTIAL AREAS;  
26  
27

- 28           ii. A TRACT WITH LESS THAN FIFTEEN PERCENT OF ITS NET  
29           TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO  
30           AT LEAST FIFTEEN PERCENT OF THE NET TRACT AREA FOR  
31           THE FOLLOWING LAND USE CATEGORIES:  
32

33           a. INSTITUTIONAL DEVELOPMENT AREAS,

34           b. HIGH DENSITY RESIDENTIAL AREAS,  
35

36           c. MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS,  
37           AND  
38

39           d. COMMERCIAL AND INDUSTRIAL USE AREAS;  
40  
41

1 2. COMPLY WITH THE FOLLOWING WHEN CUTTING INTO FOREST  
2 COVER THAT IS CURRENTLY BELOW THE AFFORESTATION  
3 PERCENTAGES DESCRIBED IN SUBSECTION (A)(1) OF THIS CHAPTER:

4  
5 i. THE REQUIRED AFFORESTATION LEVEL SHALL BE  
6 DETERMINED BY THE AMOUNT OF FOREST EXISTING BEFORE  
7 CUTTING OR CLEARING BEGINS; AND

8  
9 ii. FOREST CUT OR CLEARED BELOW THE REQUIRED  
10 AFFORESTATION LEVEL SHALL BE REFORESTED OR  
11 AFFORESTED AT A TWO TO ONE RATIO AND ADDED TO THE  
12 AMOUNT OF AFFORESTATION NECESSARY TO REACH THE  
13 MINIMUM REQUIRED AFFORESTATION LEVEL, AS  
14 DETERMINED BY THE AMOUNT OF FOREST EXISTING BEFORE  
15 CUTTING OR CLEARING BEGAN.

16  
17 B. RETENTION.

18  
19 1. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS  
20 ARE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND  
21 SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE  
22 APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE  
23 DEPARTMENT, THAT REASONABLE EFFORTS HAVE BEEN MADE TO  
24 PROTECT THEM AND THE PLAN CANNOT REASONABLY BE ALTERED:

25  
26 i. TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS  
27 INCLUDING THE 100-YEAR FLOODPLAIN, INTERMITTENT AND  
28 PERENNIAL STREAMS AND THEIR BUFFERS, COSTAL BAYS  
29 AND THEIR BUFFERS, STEEP SLOPES, NONTIDAL WETLANDS,  
30 CRITICAL HABITATS, AND HEALTHY FORESTS AS DEFINED IN  
31 THE FOREST CONSERVATION TECHNICAL MANUAL; AND

32  
33 ii. CONTIGUOUS FOREST THAT CONNECTS THE LARGEST  
34 DEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN  
35 AND ADJACENT TO THE SITE.

36  
37 2. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS  
38 ARE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND  
39 SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE  
40 APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE  
41 DEPARTMENT, THAT THE APPLICANT QUALIFIES FOR A VARIANCE  
42 IN ACCORDANCE WITH SECTION 21.71.170 OF THIS CHAPTER:  
43



- 
- 1 i. TREES, SHRUBS, OR PLANTS DETERMINED TO BE RARE,  
2 THREATENED, OR ENDANGERED UNDER:  
3  
4 a. THE FEDERAL ENDANGERED SPECIES ACT OF 1973 IN 16  
5 U.S.C. §§1531-1544 AND IN 50 C.F.R. 17,  
6  
7 b. THE MARYLAND NONGAME AND ENDANGERED SPECIES  
8 CONSERVATION ACT, NATURAL RESOURCES ARTICLE,  
9 §§10-2A-01---10-2A-09, ANNOTATED CODE OF  
10 MARYLAND, AND  
11  
12 c. COMAR 08.03.08;  
13  
14 ii. TREES THAT:  
15  
16 a. ARE PART OF A SITE DESIGNATED AS HISTORIC BY THE  
17 MARYLAND HISTORIC TRUST OR THE NATIONAL PARK  
18 SERVICE,  
19  
20 b. ARE ASSOCIATED WITH A STRUCTURE DESIGNATED AS  
21 HISTORIC BY THE MARYLAND HISTORIC TRUST OR THE  
22 NATIONAL PARK SERVICE, OR  
23  
24 c. HAVE BEEN DESIGNATED BY THE STATE, COUNTY, OR  
25 THE DEPARTMENT AS A NATIONAL, STATE, COUNTY OR  
26 MUNICIPALITY CHAMPION TREE; AND  
27  
28 iii. ANY TREE HAVING A DIAMETER MEASURED AT 4.5 FEET  
29 ABOVE THE GROUND OF:  
30  
31 a. THIRTY INCHES OR MORE, OR  
32  
33 b. SEVENTY-FIVE PERCENT OR MORE OF THE DIAMETER,  
34 MEASURED AT 4.5 FEET ABOVE THE GROUND, OF THE  
35 CURRENT STATE CHAMPION TREE OF THAT SPECIES AS  
36 DESIGNATED BY THE DEPARTMENT OF NATURAL  
37 RESOURCES.  
38

39 **SECTION 21.71.090 – REFORESTATION.**

40  
41 A. FOREST CONSERVATION THRESHOLD.  
42

- 1 1. THERE IS A FOREST CONSERVATION THRESHOLD ESTABLISHED FOR  
2 ALL LAND USE CATEGORIES, AS PROVIDED IN SUBSECTION (A)(2) OF  
3 THIS SECTION. THE FOREST CONSERVATION THRESHOLD MEANS  
4 THE PERCENTAGE OF THE NET TRACT AREA AT WHICH THE  
5 REFORESTATION REQUIREMENT CHANGES FROM A RATIO OF ¼  
6 ACRE PLANTED FOR EACH ACRE REMOVED ABOVE THE THRESHOLD  
7 TO A RATIO OF TWO ACRES PLANTED FOR EACH ACRE REMOVED  
8 BELOW THE THRESHOLD.  
9
- 10 2. AFTER REASONABLE EFFORTS TO MINIMIZE THE CUTTING OR  
11 CLEARING OF TREES AND OTHER WOODY PLANTS HAVE BEEN  
12 EXHAUSTED IN THE DEVELOPMENT OF A SUBDIVISION OR PROJECT  
13 PLAN, GRADING AND SEDIMENT CONTROL ACTIVITIES, AND  
14 IMPLEMENTATION OF THE FOREST CONSERVATION PLAN, THE  
15 FOREST CONSERVATION PLAN SHALL PROVIDE FOR  
16 REFORESTATION, PURCHASE OF CREDITS FROM A FOREST  
17 MITIGATION BANK, OR PAYMENT INTO THE FOREST CONSERVATION  
18 FUND, ACCORDING TO THE FORMULA SET FORTH BELOW AND IN  
19 SUBSECTION (A)(3) OF THIS SECTION AND CONSISTENT WITH  
20 SECTION 21.71.070(A) OF THIS CHAPTER, AND THE FOLLOWING  
21 FOREST CONSERVATION THRESHOLDS FOR THE APPLICABLE LAND  
22 USE CATEGORY:  
23

<b>CATEGORY OF USE</b>	<b>THRESHOLD PERCENTAGE</b>
(1) AGRICULTURAL RESOURCE AND RESOURCE AREAS	50 PERCENT
(2) MEDIUM DENSITY RESIDENTIAL AREAS	25 PERCENT
(3) INSTITUTIONAL DEVELOPMENT AREAS	20 PERCENT
(4) HIGH DENSITY RESIDENTIAL AREAS	20 PERCENT
(5) PLANNED DEVELOPMENT AREAS	15 PERCENT
(6) MIXED USE AND COMMERCIAL AND INDUSTRIAL USE AREAS	15 PERCENT

- 24
- 25 3. CALCULATIONS.
- 26
- 27 i. FOR ALL EXISTING FOREST COVER MEASURED TO THE  
28 NEAREST 1/10<sup>TH</sup> ACRE CLEARED ON THE NET TRACT AREA  
29 ABOVE THE APPLICABLE FOREST CONSERVATION  
30 THRESHOLD, THE AREA OF THE FOREST REMOVED SHALL BE  
31 REFORESTED AT A RATIO OF ¼ ACRE PLANTED FOR EACH  
32 ACRE REMOVED.  
33

1           ii. EACH ACRE OF FOREST RETAINED ON THE NET TRACT AREA  
2 ABOVE THE APPLICABLE FOREST CONSERVATION  
3 THRESHOLD SHALL BE CREDITED AGAINST THE TOTAL  
4 NUMBER OF ACRES REQUIRED TO BE REFORESTED UNDER  
5 (3)(I) OF THIS SUBSECTION. THE CALCULATION OF THE CREDIT  
6 SHALL BE ACCORDING TO THE CRITERIA PROVIDED IN THE  
7 FOREST CONSERVATION TECHNICAL MANUAL.  
8

9           iii. FOR ALL EXISTING FOREST COVER MEASURED TO THE  
10 NEAREST 1/10<sup>TH</sup> ACRE CLEARED ON THE NET TRACT AREA  
11 BELOW THE APPLICABLE FOREST CONSERVATION  
12 THRESHOLD, THE AREA OF FOREST REMOVED SHALL BE  
13 REFORESTED AT A RATIO OF TWO ACRES PLANTED FOR EACH  
14 ACRE REMOVED BELOW THE THRESHOLD.  
15

16 **SECTION 21.71.100 – PRIORITIES AND TIME REQUIREMENTS FOR**  
17 **AFFORESTATION AND REFORESTATION.**  
18

19       A. SEQUENCE FOR AFFORESTATION AND REFORESTATION.  
20

21       1. AFTER TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE  
22 HAVE BEEN EXHAUSTED, THE PREFERRED SEQUENCE FOR  
23 AFFORESTATION AND REFORESTATION, AS DETERMINED BY THE  
24 DEPARTMENT, IS AS FOLLOWS:  
25

26           i. FOREST CREATION IN ACCORDANCE WITH A FOREST  
27 CONSERVATION PLAN USING ONE OR MORE OF THE  
28 FOLLOWING:  
29

30               a. TRANSPLANTED OR NURSERY STOCK,  
31

32               b. WHIP OR SEEDLING STOCK, OR  
33

34               c. NATURAL REGENERATION WHERE IT CAN BE  
35 ADEQUATELY SHOWN TO MEET THE OBJECTIVE OF THE  
36 FOREST CONSERVATION TECHNICAL MANUAL;  
37

38           ii. IN A MUNICIPAL CORPORATION WITH A TREE MANAGEMENT  
39 PLAN AND IN AN EXISTING POPULATION CENTER  
40 DESIGNATED IN A COUNTY MASTER PLAN THAT HAS BEEN  
41 ADOPTED TO CONFORM WITH THE ECONOMIC GROWTH,  
42 RESOURCE PROTECTION, AND PLANNING ACT OF 1992, OR IN

1 ANY OTHER DESIGNATED AREA APPROVED BY THE  
2 DEPARTMENT, THE USE OF:

- 3
- 4 a. STREET TREES AS A PERMISSIBLE STEP IN THE  
5 PRIORITY SEQUENCE FOR AFFORESTATION OR  
6 REFORESTATION AND WITH A MATURE CANOPY  
7 COVERAGE MAY BE GRANTED FULL CREDIT AS A  
8 MITIGATION TECHNIQUE, AND  
9
- 10 b. ACQUISITION OF AN OFF-SITE PROTECTION EASEMENT  
11 ON EXISTING FORESTED AREAS NOT CURRENTLY  
12 PROTECTED IN PERPETUITY AS A MITIGATION  
13 TECHNIQUE, IN WHICH CASE THE AFFORESTATION OR  
14 REFORESTATION CREDIT GRANTED MAY NOT EXCEED  
15 FIFTY PERCENT OF THE AREA OF FOREST COVER  
16 PROTECTED;  
17
- 18 iii. WHEN ALL OTHER OPTIONS, BOTH ONSITE AND OFFSITE,  
19 HAVE BEEN EXHAUSTED, LANDSCAPING AS A MITIGATION  
20 TECHNIQUE CONDUCTED UNDER AN APPROVED  
21 LANDSCAPING PLAN THAT ESTABLISHES A FOREST AT LEAST  
22 THIRTY-FIVE FEET WIDE AND COVERING AT LEAST 2,500  
23 SQUARE FEET OF AREA.  
24
- 25 2. A SEQUENCE OTHER THAN THE ONE DESCRIBED IN SUBSECTION  
26 (A)(1) OF THIS ARTICLE MAY BE USED FOR A SPECIFIC PROJECT, IF  
27 NECESSARY, TO ACHIEVE THE OBJECTIVES OF THE CITY LAND USE  
28 PLAN OR CITY LAND USE POLICIES, OR TO TAKE ADVANTAGE OF  
29 OPPORTUNITIES TO CONSOLIDATE FOREST CONSERVATION  
30 EFFORTS.  
31
- 32 3. THE FOLLOWING ARE CONSIDERED A PRIORITY FOR  
33 AFFORESTATION AND REFORESTATION:  
34
- 35 i. THOSE TECHNIQUES THAT ENHANCE EXISTING FOREST AND  
36 INVOLVE SELECTIVE CLEARING OR SUPPLEMENTAL  
37 PLANTING ONSITE;  
38
- 39 ii. ONSITE AFFORESTATION AND REFORESTATION WHERE THE  
40 RETENTION OPTIONS HAVE BEEN EXHAUSTED, SUING  
41 METHODS SELECTED IN ACCORDANCE WITH SUBSECTION  
42 (A)(6) OF THIS SECTION, AND THE LOCATION BEING SELECTED  
43 IN ACCORDANCE WITH THIS SUBSECTION.

1  
2           iii. OFFSITE AFFORESTATION OR REFORESTATION IN THE SAME  
3           WATERSHED OR IN ACCORDANCE WITH AN APPROVED  
4           MASTER PLAN WHERE THE APPLICANT HAS DEMONSTRATED  
5           THAT NO REASONABLE ALTERNATIVE ONSITE EXISTS, OR  
6           WHERE:  
7

8                   a. ANY ONSITE PRIORITY AREAS FOR AFFORESTATION OR  
9                   REFORESTATION HAVE BEEN PLANTED IN  
10                  ACCORDANCE WITH THIS SUBSECTION; AND  
11

12                   b. THE APPLICANT HAS JUSTIFIED TO THE DEPARTMENT'S  
13                   SATISFACTION THAT ENVIRONMENTAL BENEFITS  
14                   ASSOCIATED WITH OFFSITE AFFORESTATION OR  
15                   REFORESTATION EXCEED THOSE DERIVED FROM  
16                   ONSITE PLANTING.  
17

18           4. IN THE CASES CITED IN SUBSECTION (A)(3) OF THIS SECTION, THE  
19           METHOD SHALL BE SELECTED IN ACCORDANCE WITH SUBSECTION  
20           (A)(6) OF THIS SECTION AND THE LOCATION SHALL BE SELECTED IN  
21           ACCORDANCE WITH SUBSECTION (A)(3) OF THIS SECTION.  
22

23           5. OFFSITE AFFORESTATION OR REFORESTATION MAY INCLUDE THE  
24           USE OF FOREST MITIGATION BANKS WHICH HAVE BEEN SO  
25           DESIGNATED IN ADVANCE BY THE DEPARTMENT.  
26

27           6. STANDARDS FOR MEETING AFFORESTATION OR REFORESTATION  
28           REQUIREMENTS SHALL BE ESTABLISHED USING ONE OR MORE OF  
29           THE FOLLOWING METHODS:  
30

31                   i. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO  
32                   INTERMITTENT AND PERENNIAL STREAMS, AND COSTAL  
33                   BAYS AND THEIR BUFFERS, TO WIDTHS OF AT LEAST FIFTY  
34                   FEET;  
35

36                   ii. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS TO  
37                   CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE  
38                   SITE AND, WHERE PRACTICAL, FORESTED CORRIDORS  
39                   SHOULD BE A MINIMUM OF 300 FEET IN WIDTH TO FACILITATE  
40                   WILDLIFE MOVEMENT;  
41

42                   iii. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO  
43                   CRITICAL HABITATS WHERE APPROPRIATE;

- 1  
2           iv. ESTABLISH OR ENHANCE FORESTED AREAS IN THE 100-YEAR  
3           FLOODPLAINS;  
4  
5           v. ESTABLISH PLANTINGS TO STABILIZE SLOPES OF TWENTY-  
6           FIVE PERCENT OR GREATER AND SLOPES OF FIFTEEN  
7           PERCENT OR GREATER WITH A SOIL K VALUE GREATER THAN  
8           0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL  
9           DEPRESSIONS;  
10  
11          vi. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING  
12          LAND USE WHEN APPROPRIATE, OR ADJACENT TO HIGHWAYS  
13          OR UTILITY RIGHTS-OF-WAY;  
14  
15          vii. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS  
16          TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST  
17          COVER, WHEN APPROPRIATE; AND  
18  
19          viii. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR  
20          REFORESTATION, WHEN APPROPRIATE.  
21  
22

- 23          7. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR  
24          REFORESTATION UNDER THIS CHAPTER SHALL ACCOMPLISH IT  
25          WITHIN ONE YEAR OR TWO GROWING SEASONS, WHICHEVER IS A  
26          GREATER TIME PERIOD, FOLLOWING DEVELOPMENT PROJECT  
27          COMPLETION.  
28

29 **SECTION 21.71.110 – PAYMENT INSTEAD OF AFFORESTATION AND**  
30 **REFORESTATION.**  
31

32          A. FOREST CONSERVATION FUND.  
33

- 34                  1. THE DEPARTMENT SHALL HAVE AUTHORITY TO ESTABLISH A  
35                  FOREST CONSERVATION FUND IN THE LOCAL PROGRAM.  
36  
37                  2. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE  
38                  SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR  
39                  AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT  
40                  BE REASONABLY ACCOMPLISHED, THE PERSON SHALL CONTRIBUTE  
41                  MONEY INTO THE CITY FOREST CONSERVATION FUND:  
42

1 i. FOR A PROJECT INSIDE A PRIORITY FUNDING AREA, AS  
2 DEFINED IN NATURAL RESOURCES ARTICLE, §5-1610,  
3 ANNOTATED CODE OF MARYLAND, AT A RATE PER SQUARE  
4 FOOT OF THE AREA OF REQUIRED PLANTING TO BE SET BY  
5 RESOLUTION OF THE CITY COUNCIL IN THE FEE SCHEDULE,  
6 AND  
7

8 ii. FOR A PROJECT OUTSIDE A PRIORITY FUNDING AREA, AT A  
9 RATE OF 36 CENTS PER SQUARE FOOT OF THE AREA OF  
10 REQUIRED PLANTING UNTIL SEPTEMBER 30, 2014, WHEN THE  
11 AMOUNT SHALL BE TWENTY PERCENT HIGHER THAN THE  
12 RATE ESTABLISHED FOR A PROJECT INSIDE A PRIORITY  
13 FUNDING AREA.  
14

15 3. MONEY CONTRIBUTED INSTEAD OF AFFORESTATION OR  
16 REFORESTATION UNDER THIS CHAPTER SHALL BE PAID WITHIN  
17 NINETY CALENDAR DAYS AFTER DEVELOPMENT PROJECT  
18 COMPLETION.  
19

20 4. THE CITY SHALL ACCOMPLISH THE AFFORESTATION OR  
21 REFORESTATION FOR WHICH THE MONEY IS DEPOSITED WITHIN  
22 TWO YEARS OR THREE GROWING SEASONS, WHICHEVER IS A  
23 GREATER TIME PERIOD, AFTER RECEIPT OF THE MONEY.  
24

25 5. MONEY DEPOSITED IN THE CITY FOREST CONSERVATION FUND:

26  
27 i. MAY BE SPENT ON THE COSTS DIRECTLY RELATED TO  
28 AFFORESTATION AND REFORESTATION, INCLUDING SITE  
29 IDENTIFICATION, ACQUISITION, PREPARATION,  
30 MAINTENANCE OF EXISTING FORESTS, AND ACHIEVING  
31 URBAN CANOPY GOALS;  
32

33 ii. SHALL BE DEPOSITED IN A SEPARATE FOREST  
34 CONSERVATION FUND; AND  
35

36 iii. MAY NOT REVERT TO THE GENERAL FUND.  
37

38 6. SITES FOR AFFORESTATION OR REFORESTATION USING FUND  
39 MONEY:  
40

41 i. EXCEPT AS PROVIDED IN SUBSECTION (A)(6)(2) OF THIS  
42 SECTION, THE AFFORESTATION OR REFORESTATION  
43 REQUIREMENT UNDER THIS CHAPTER SHALL OCCUR IN THE

1 WATERSHED IN WHICH THE PROJECT IS LOCATED WITH  
2 PRIORITY THAT THE REQUIREMENT BE MET ON LAND IN THE  
3 CITY BEFORE CONSIDERATION OF LAND OUTSIDE THE CITY.  
4

- 5 ii. IF THE AFFORESTATION OR REFORESTATION CANNOT BE  
6 REASONABLY ACCOMPLISHED IN THE CITY AND WATERSHED  
7 IN WHICH THE PROJECT IS LOCATED, THEN THE  
8 AFFORESTATION OR REFORESTATION SHALL OCCUR IN THE  
9 CITY OR WATERSHED IN THE STATE IN WHICH THE PROJECT IS  
10 LOCATED.  
11

- 12 7. IF THERE IS NO LOCAL FOREST CONSERVATION FUND ESTABLISHED,  
13 A PERSON MAY CONTRIBUTE TO THE STATE FUND. THE  
14 DEPARTMENT OF NATURAL RESOURCES SHALL DETERMINE WHEN  
15 CONTRIBUTION IS ALLOWABLE UNDER COMAR 08.19.02.02I.  
16

17 **SECTION 21.71.120 – PAYMENT BY CREDITS FROM A FOREST MITIGATION**  
18 **BANK.**  
19

- 20 A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE  
21 SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR  
22 AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE  
23 REASONABLY ACCOMPLISHED, THE PERSON MAY CONTRIBUTE CREDITS  
24 FROM A FOREST MITIGATION BANK. A CREDIT IS REQUIRED FOR EACH  
25 TENTH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.  
26  
27 B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST  
28 MITIGATION BANK WITHIN NINETY CALENDAR DAYS AFTER THE  
29 DEVELOPMENT PROJECT COMPLETION.  
30

31 **SECTION 21.71.130 – ESTABLISHING FOREST MITIGATION BANKS.**  
32

- 33 A. UPON APPROVAL OF DNEP, A PERSON MAY CREATE A FOREST MITIGATION  
34 BANK FROM WHICH APPLICANTS MAY PURCHASE CREDITS TO MEET THE  
35 AFFORESTATION AND REFORESTATION REQUIREMENTS OF THIS CHAPTER.  
36  
37 B. THE FOREST MITIGATION BANK SHALL:  
38  
39 1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH  
40 A FOREST MITIGATION BANK AGREEMENT;  
41  
42 2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR  
43 COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN



1 FORESTED IN PERPETUITY AND ARE ENFORCEABLE BY THE  
2 DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES;  
3

4 3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES  
5 WHICH ARE NOT CONSISTENT WITH FOREST CONSERVATION SUCH  
6 AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A  
7 FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER  
8 TAX-PROPERTY ARTICLE, §8-211, ANNOTATED CODE OF MARYLAND,  
9 OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN  
10 PREPARED BY A LICENSED FORESTER AND APPROVED BY THE  
11 DEPARTMENT;  
12

13 4. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR  
14 REFORESTATION UNLESS INAPPROPRIATE; AND  
15

16 5. CAUSE TREES TO BE PLANTED WHICH:  
17

18 i. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO  
19 INTERMITTENT AND PERENNIAL STREAMS AND COASTAL  
20 BAYS TO WIDTHS OF AT LEAST FIFTY FEET;  
21

22 ii. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS,  
23 WHICH, WHERE PRACTICAL, SHOULD BE A MINIMUM OF 300  
24 FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT, TO  
25 CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE  
26 SITE;  
27

28 iii. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO  
29 CRITICAL HABITATS WHERE APPROPRIATE;  
30

31 iv. ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR  
32 FLOODPLAINS;  
33

34 v. STABILIZE SLOPES OF TWENTY-FIVE PERCENT OR GREATER;  
35

36 vi. STABILIZE SLOPES OF FIFTEEN PERCENT OR GREATER WITH A  
37 SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES  
38 OF RAVINES OR OTHER NATURAL DEPRESSIONS;  
39

40 vii. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING  
41 LAND USE WHERE APPROPRIATE, OR ADJACENT TO  
42 HIGHWAYS OR UTILITY RIGHTS-OF-WAY; OR  
43

1                   viii. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS  
2                   TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST  
3                   COVER, WHEN APPROPRIATE.  
4

5           C. A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL  
6           SUBMIT TO THE DEPARTMENT A:  
7

8           1. COMPLETED APPLICATION ON A FORM APPROVED BY THE  
9           DEPARTMENT WHICH HAS BEEN SIGNED BY AN AUTHORIZED  
10           INDIVIDUAL IN CONFORMANCE WITH COMAR 08.19.04.02I;  
11

12           2. FOREST MITIGATION BANK PLAN WHICH CONTAINS A:  
13

14                   i. VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;  
15

16                   ii. SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE  
17                   CRITERIA IN COMAR 08.19.04.02;  
18

19                   iii. DETAILED AFFORESTATION OR REFORESTATION PLAN,  
20                   WHICH SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF  
21                   THE SITE AND SOIL PREPARATION NEEDED, SPECIES, SIZE,  
22                   AND SPACING TO BE UTILIZED, PREPARED BY A LICENSED  
23                   MARYLAND FORESTER, A LICENSED LANDSCAPE ARCHITECT,  
24                   OR A QUALIFIED PROFESSIONAL WHO MEETS THE  
25                   REQUIREMENTS STATED IN COMAR 08.19.06.01A; AND  
26

27                   iv. PROPOSED TWO YEAR MAINTENANCE AGREEMENT THAT:  
28

29                           a. SETS FORTH HOW THE AREAS AFFORESTED OR  
30                           REFORESTED WILL BE MAINTAINED TO ENSURE  
31                           PROTECTION AND SATISFACTORY ESTABLISHMENT,  
32

33                           b. COMPLIES WITH COMAR 08.19.05.05C(4)(A), AND  
34

35                           c. INCLUDES WATERING AND REINFORCEMENT PLANTING  
36                           PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED  
37                           STANDARDS;  
38

39           3. COPY OF THE DEED TO THE PROPERTY;  
40

41           4. SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE  
42           BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED  
43           RESTRICTIONS, OR COVENANTS;

1  
2 5. TITLE REPORT OR OTHER ASSURANCE THAT:  
3

4 i. THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR  
5 OTHER TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE  
6 PROPERTY'S USE AS A FOREST MITIGATION BANK; AND  
7

8 ii. THERE IS LEGALLY SUFFICIENT ACCENTS TO THE FOREST  
9 MITIGATION BANK SITE WHICH CAN BE USED BY THE  
10 DEPARTMENT AND ITS ASSIGNEES TO INSPECT THE FOREST  
11 MITIGATION BANK; AND  
12

13 6. DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING  
14 AND OPERATING THE FOREST MITIGATION BANK TO IDENTIFY AND  
15 KEEP TRACK OF WHICH PORTIONS OF THE BANK HAVE BEEN  
16 DEBITED TO MEET AN APPLICANT'S OFFSITE AFFORESTATION OR  
17 REFORESTATION REQUIREMENTS.  
18

19 D. THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER  
20 INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:  
21

22 1. THE APPROVED AFFORESTATION OR REFORESTATION PLAN;  
23

24 2. THE APPROVED SYSTEM FOR MARKETING AND TRACKING WHICH  
25 PORTIONS OF THE BANK HAVE BEEN DEBITED; AND  
26

27 3. AN ACKNOWLEDGEMENT THAT THE BANK MAY NOT DEBIT ANY  
28 PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL TWO  
29 YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED UNLESS THE  
30 BANKER HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.  
31

32 **SECTION 21.71.140 – RECOMMENDED TREE SPECIES.**  
33

34 A. TREE SPECIES USED FOR AFFORESTATION OR REFORESTATION SHALL BE  
35 NATIVE TO THE CITY, WHEN APPROPRIATE, AND SELECTED FROM A LIST  
36 OF APPROVED SPECIES ESTABLISHED BY THE DEPARTMENT.  
37

38 B. THE DEPARTMENT SHALL ADOPT A LIST OF TREE SPECIES TO BE USED FOR  
39 ANY REQUIRED AFFORESTATION OR REFORESTATION AND INCORPORATE  
40 IT INTO THE FOREST CONSERVATION TECHNICAL MANUAL.  
41

42 **SECTION 21.71.150 – FINANCIAL SECURITY FOR AFFORESTATION AND**  
43 **REFORESTATION.**

1  
2 A. A PERSON REQUIRED TO CONDUCT AFFORESTATION OR REFORESTATION  
3 UNDER THIS CHAPTER SHALL FURNISH FINANCIAL SECURITY IN THE  
4 FORM OF A BOND, AN IRREVOCABLE LETTER OF CREDIT, OR OTHER  
5 SECURITY APPROVED BY THE DEPARTMENT. THE SURETY SHALL:

6  
7 1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND THE  
8 ASSOCIATED MAINTENANCE AGREEMENT ARE CONDUCTED AND  
9 MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST  
10 CONSERVATION PLAN;

11  
12 2. BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS  
13 DETERMINED BY THE DEPARTMENT, OF AFFORESTATION AND  
14 REFORESTATION; AND

15  
16 3. BE IN A FORM AND OF A CONTENT APPROVED BY THE  
17 DEPARTMENT.

18  
19 B. AFTER ONE GROWING SEASON, THE PERSON REQUIRED TO FILE A BOND  
20 MAY REQUEST REDUCTION OF THE AMOUNT OF THE BOND OR OTHER  
21 FINANCIAL SECURITY BY SUBMITTING A WRITTEN REQUEST TO THE  
22 DEPARTMENT WITH A JUSTIFICATION FOR REDUCING THE BOND OR  
23 OTHER FINANCIAL SECURITY AMOUNT, INCLUDING ESTIMATED OR  
24 ACTUAL COSTS TO ENSURE AFFORESTATION OR REFORESTATION  
25 REQUIREMENTS ARE MET.

26  
27 C. THE DEPARTMENT SHALL DETERMINE WHETHER A LESSER AMOUNT IS  
28 SUFFICIENT TO COVER THE COST OF AFFORESTATION OR  
29 REFORESTATION, TAKING IN ACCOUNT THE FOLLOWING:

30  
31 1. THE NUMBER OF ACRES;

32  
33 2. THE PROPOSED METHOD OF AFFORESTATION OR REFORESTATION;

34  
35 3. THE COST OF PLANTING MATERIALS OR REPLACEMENT MATERIALS;

36  
37 4. THE COST OF MAINTENANCE OF THE AFFORESTATION OR  
38 REFORESTATION PROJECT; AND

39  
40 5. OTHER RELEVANT FACTORS.

41  
42 D. IF, AFTER TWO GROWING SEASONS, THE PLANTINGS ASSOCIATED WITH  
43 THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE

1 STANDARDS OF THE FOREST CONSERVATION TECHNICAL MANUAL, THE  
2 AMOUNT OF THE CASH BOND, LETTER OF CREDIT, SURETY BOND, OR  
3 OTHER SECURITY SHALL BE RETURNED OR RELEASED.  
4

- 5 E. A LOCAL FOREST CONSERVATION PROGRAM MAY INCORPORATE THE  
6 FINANCIAL SECURITY SET FORTH IN SUBSECTION (A)-(D) OF THIS SECTION  
7 OR IN COMAR 08.19.05.01B.  
8

9 **SECTION 21.71.160 – STANDARDS FOR PROTECTING TREES FROM**  
10 **CONSTRUCTION ACTIVITIES.**  
11

- 12 A. THE CITY SHALL ADOPT STANDARDS FOR THE PROTECTION OF TREES  
13 FROM CONSTRUCTION ACTIVITY.  
14  
15 B. BEFORE CUTTING, CLEARING, GRADING, OR CONSTRUCTION BEGINS ON A  
16 SITE FOR WHICH A FOREST CONSERVATION PLAN IS REQUIRED BY THIS  
17 CHAPTER, THE APPLICANT SHALL DEMONSTRATE TO THE DEPARTMENT  
18 THAT PROTECTIVE DEVICES HAVE BEEN ESTABLISHED.  
19

20 **SECTION 21.71.170 – VARIANCES.**  
21

- 22 A. A PERSON MAY REQUEST A VARIANCE FROM THIS CHAPTER OR THE  
23 REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §§5-1601—5-1612,  
24 ANNOTATED CODE OF MARYLAND, IF THE PERSON DEMONSTRATES THAT  
25 ENFORCEMENT WOULD RESULT IN UNWARRANTED HARDSHIP TO THE  
26 PERSON.  
27  
28 B. AN APPLICANT FOR A VARIANCE SHALL:  
29  
30 1. DESCRIBE THE SPECIAL CONDITIONS PECULIAR TO THE PROPERTY  
31 WHICH WOULD CAUSE THE UNWARRANTED HARDSHIP;  
32  
33 2. DESCRIBE HOW ENFORCEMENT OF THESE RULES WILL DEPRIVE THE  
34 APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHERS IN  
35 SIMILAR AREAS;  
36  
37 3. VERIFY THAT THE GRANTING OF THE VARIANCE WILL NOT CONFER  
38 ON THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED  
39 TO OTHER APPLICANTS;  
40  
41 4. VERIFY THAT THE VARIANCE REQUEST IS NOT BASED ON  
42 CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF  
43 ACTIONS BY THE APPLICANT;

1  
2 5. VERIFY THAT THE REQUEST DOES NOT ARISE FROM A CONDITION  
3 RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR  
4 NONCONFORMING, ON A NEIGHBORING PROPERTY; AND

5  
6 6. VERIFY THAT THE GRANTING OF A VARIANCE WILL NOT  
7 ADVERSELY AFFECT WATER QUALITY.

8  
9 C. THE DEPARTMENT SHALL MAKE FINDINGS THAT THE APPLICANT HAS MET  
10 THE REQUIREMENTS IN SUBSECTIONS (A) AND (B) OF THIS SECTION  
11 BEFORE THE DEPARTMENT MAY GRANT A VARIANCE.

12  
13 D. NOTICE OF A REQUEST FOR A VARIANCE SHALL BE GIVEN TO THE  
14 DEPARTMENT OF NATURAL RESOURCES WITHIN FIFTEEN DAYS OF  
15 RECEIPT OF A REQUEST FOR A VARIANCE.

16  
17 E. THERE IS ESTABLISHED BY THIS CHAPTER THE RIGHT AND AUTHORITY OF  
18 THE DEPARTMENT OF NATURAL RESOURCES TO INITIATE OR INTERVENE  
19 IN AN ADMINISTRATIVE, JUDICIAL, OR OTHER ORIGINAL PROCEEDING OR  
20 APPEAL IN THE STATE CONCERNING AN APPROVAL OF A VARIANCE  
21 UNDER NATURAL RESOURCES ARTICLE, §§1-1601—5-1612, ANNOTATED  
22 CODE OF MARYLAND, OR THIS CHAPTER.

23  
24  
25 **SECTION 21.71.180 – ENFORCEMENT.**

26  
27 A. NONCOMPLIANCE FEES.

28  
29 1. A PERSON FOUND TO BE IN NONCOMPLIANCE WITH THIS CHAPTER,  
30 REGULATIONS ADOPTED UNDER THIS CHAPTER, THE FOREST  
31 CONSERVATION PLAN, OR THE ASSOCIATED TWO YEAR  
32 MAINTENANCE AGREEMENT, SHALL BE ASSESSED BY THE  
33 DEPARTMENT A PENALTY OF THIRTY CENTS PER SQUARE FOOT OF  
34 THE AREA FOUND TO BE IN NONCOMPLIANCE WITH THE REQUIRED  
35 FOREST CONSERVATION.

36  
37 2. MONEY COLLECTED UNDER SUBSECTION (A)(1) OF THIS SECTION  
38 SHALL BE DEPOSITED IN THE FOREST CONSERVATION FUND  
39 AUTHORIZED BY SECTION 21.71.130 OF THIS CHAPTER, AND MAY BE  
40 USED BY THE DEPARTMENT FOR PURPOSES RELATED TO  
41 IMPLEMENTING THIS CHAPTER.

42  
43 B. VIOLATION.

1  
2 1. IN ADDITION TO THE PROVISIONS OF SUBSECTION (A) OF THIS  
3 SECTION, A PERSON WHO VIOLATES A PROVISION OF THIS CHAPTER  
4 OR A REGULATION OR ORDER ADOPTED OR ISSUED PURSUANT TO  
5 THIS CHAPTER MAY BE SERVED A MUNICIPAL INFRACTION  
6 CITATION BY THE DEPARTMENT. UPON A FINDING BY A COURT  
7 THAT A VIOLATION HAS OCCURRED, OR UPON AN  
8 ACKNOWLEDGEMENT OF THE PERSON THAT A VIOLATION HAS  
9 OCCURRED AS STATED IN A CITATION, OR UPON SUCH  
10 ACKNOWLEDGMENT PRIOR TO THE ISSUANCE OF A CITATION, THE  
11 PERSON SHALL ABATE THE VIOLATION AND SHALL BE SUBJECT TO  
12 A FINE TO BE SET BY RESOLUTION OF THE CITY COUNCIL.

13  
14 2. EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION  
15 FOR WHICH A SEPARATE CITATION MAY BE SERVED.

16  
17 C. THE DEPARTMENT MAY SEEK AN INJUNCTION OR OTHER EQUITABLE  
18 RELIEF REQUIRING A PERSON TO CEASE VIOLATION OF THIS CHAPTER  
19 AND TAKE CORRECTIVE ACTION TO RESTORE OR REFOREST AN AREA.

20  
21 D. THE LOCAL PROGRAM MAY ADOPT THE ENFORCEMENT PROVISIONS  
22 UNDER COMAR 08.19.06.03.

23  
24 E. THE LOCAL PROGRAM SHALL PROVIDE TO THE DEPARTMENT NOTICE OF  
25 AN ENFORCEMENT ACTION WITHIN FIFTEEN DAYS AFTER THE  
26 COMMENCEMENT OF ENFORCEMENT BY THE LOCAL PROGRAM.

27  
28 **SECTION 21.71.190 – ANNUAL REPORT.**

29  
30 ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL  
31 SUBMIT TO THE DEPARTMENT OF NATURAL RESOURCES A REPORT WHICH  
32 CONTAINS THE:

33  
34 A. NUMBER, LOCATION, AND TYPE OF PROJECTS SUBJECT TO THE  
35 PROVISIONS OF THIS CHAPTER;

36  
37 B. AMOUNT AND LOCATION OF ACRES CLEARED, CONSERVED, AND  
38 PLANTED, INCLUDING ANY AREAS LOCATED IN THE 100-YEAR  
39 FLOODPLAIN IN CONNECTION WITH A DEVELOPMENT PROJECT;

40  
41 C. AMOUNT OF AFFORESTATION AND REFORESTATION FEES AND  
42 NONCOMPLIANCE PENALTIES COLLECTED AND EXPENDED;

43

1 D. COSTS OF IMPLEMENTING THE FOREST CONSERVATION PROGRAM;

2  
3 E. LOCATION AND SIZE OF ALL FOREST MITIGATION BANKS APPROVED  
4 DURING THE PAST YEAR WITH A DESCRIPTION OF THE PRIORITY AREAS  
5 AFFORESTED OR REFORESTED BY THE BANK;

6  
7 F. NUMBER OF ACRES DEBITED FROM EACH FOREST MITIGATION BANK  
8 SINCE THE LAST ANNUAL REPORT;

9  
10 G. FOREST MITIGATION BANKS INSPECTED SINCE THE LAST ANNUAL  
11 REPORT;

12  
13 H. NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES OF  
14 ENFORCEMENT ACTIVITIES CONDUCTED; AND

15  
16 I. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST  
17 AREAS SHALL BE SUBMITTED IN AN ELECTRONIC GEOGRAPHIC  
18 INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT IF  
19 POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE GIVEN BY  
20 MARYLAND STATE PLANE GRID COORDINATES AND 8 DIGIT  
21 SUBWATERSHED.

22  
23 **SECTION 21.71.200 – BIENNIAL REVIEW BY THE DEPARTMENT OF NATURAL**  
24 **RESOURCES.**

25  
26 THE DEPARTMENT SHALL SUBMIT THE NECESSARY DOCUMENTATION TO  
27 COMPLY WITH COMAR 08.19.02.04.

28  
29 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
30 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its  
31 passage.

32  
33 **EXPLANATION**

34 CAPITAL LETTERS indicate matter added to existing law.

35 ~~Strikethrough~~ indicates matter stricken from existing law.

36 Underlining indicates amendments.

37