



Legislation Text

File #: O-32-14, Version: 1

Forest Conservation Requirements and Standards in the City of Annapolis - For the purpose of adopting requirements and standards for forest conservation in the City of Annapolis; providing forest stand delineation and forest conservation plan requirements; providing exceptions to Chapter 17.13 of the City Code; providing for variance procedures; and all other matters generally relating to forest conservation in the City of Annapolis.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 32-14

Introduced by: Alderman Littmann, Alderman Arnett, Mayor Pantelides

Referred to:
Economic Matters Committee
Environmental Matters Committee
Rules and City Government Committee
Finance Committee

An ORDINANCE concerning

Forest Conservation Requirements and Standards in the City of Annapolis

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

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2012 Edition
Section 17.09.025
Section 21.24.090
Section 21.24.120

BY adding the following portions to the Code of the City of Annapolis, 2012 Edition
Section 17.13.010
Section 17.13.015
Section 17.13.020
Section 17.13.025
Section 17.13.030
Section 17.13.035
Section 17.13.040
Section 17.13.045
Section 17.13.050
Section 17.13.055

Section 17.13.060
Section 17.13.065
Section 17.13.070
Section 17.13.075
Section 17.13.080
Section 17.13.085
Section 17.13.090
Section 17.13.095
Section 17.13.100
Section 17.13.105
Section 17.13.110

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 17.09 - Trees in Development Areas

17.09.025 - Applicability.

A. The requirements of this chapter AND CHAPTER 17.13 OF THE CITY CODE shall apply to any application for a building and grading permit, or any application for a development project requiring site design plan review in accordance with the requirements of Chapter 21.22 of this Code, and ANY SUBMITTAL OF A FOREST STAND DELINEATION, ANY PRELIMINARY FOREST CONSERVATION PLAN, AND ANY FINAL FOREST CONSERVATION PLAN.

B. The Maryland Forest Conservation Act, as set forth in the Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16, as may be amended from time to time, shall apply to any public or private subdivision plan, or application for a grading permit, or any application for a development project, AND SUBMITTAL OF ANY FOREST STAND DELINEATION, PRELIMINARY FOREST CONSERVATION PLAN OR FOREST CONSERVATION PLAN. Where any provision of the Forest Conservation Act and a provision of the City Code both apply, the more restrictive requirements may be employed.

CHAPTER 17.13 - FOREST CONSERVATION

17.13.010 - PURPOSE AND GENERAL PROVISIONS.

THE CITY COUNCIL FINDS THAT THIS CHAPTER IS NECESSARY IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE NATURAL RESOURCES ARTICLE, §§5-1601-5-1612, AND COMAR 08.19.

17.13.015 - 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 OR ENTITY WHICH HAS SUBMITTED AN APPLICATION FOR APPROVAL OF A PLANNED DEVELOPMENT, SUBDIVISION OR PROJECT PLAN, OR A GRADING OR SEDIMENT CONTROL PERMIT, OR WHO OR WHICH HAS SUBMITTED A FOREST STAND DELINEATION FOR REVIEW, A PRELIMINARY FOREST CONSERVATION PLAN FOR REVIEW OR A FINAL FOREST CONSERVATION PLAN FOR APPROVAL.

“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 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.

“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.

“DECLARATION OF INTENT” MEANS:

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

“DEPARTMENT” MEANS THE CITY OF ANNAPOLIS DEPARTMENT OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS.

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

“DEVELOPMENT PROJECT COMPLETION” MEANS, FOR PURPOSES OF AFFORESTATION, REFORESTATION, OR PAYMENT INTO A FUND:

- A. THE RELEASE OF ANY REQUIRED BOND;
- B. ANY REQUIRED TRANSFER OF TITLE TO THE CITY ACCEPTANCE OF THE DEVELOPMENT PROJECT’S STREETS, UTILITIES, AND FACILITIES; AND
- C. ANY REQUIRED DEPARTMENT OR STATE DESIGNATION THAT A DEVELOPMENT PROJECT HAS BEEN COMPLETED, OR A PARTICULAR STAGE OF A STAGED DEVELOPMENT PROJECT HAS BEEN COMPLETED.

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

“FOREST” MEANS:

- A. A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS COVERING A LAND AREA OF 10,000 SQUARE FEET OR GREATER, WHICH INCLUDES:
 - 1. AREAS WHICH HAVE AT LEAST 100 LIVE TREES PER ACRE WITH AT LEAST 50% OF THOSE TREES HAVING A TWO INCH OR GREATER DIAMETER AT FOUR AND A HALF FEET ABOVE THE GROUND AND LARGER; AND
 - 2. AREAS WHICH HAVE BEEN CUT ALTHOUGH NOT CLEARED.
- B. FOREST DOES NOT INCLUDE ORCHARDS.

“FOREST CONSERVATION” MEANS THE RETENTION OF EXISTING FOREST OR THE CREATION OF NEW FOREST AT THE LEVELS WHICH THE STATE, DEPARTMENT OR THIS CHAPTER SETS.

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

“FOREST CONSERVATION TECHNICAL MANUAL” MEANS THE CITY FOREST CONSERVATION TECHNICAL MANUAL THAT IS USED TO ESTABLISH STANDARDS OF PERFORMANCE REQUIRED IN PREPARING FOREST STAND DELINEATIONS AND FOREST CONSERVATION PLANS. AT ANY TIME THAT THE CITY DOES NOT HAVE A TECHNICAL MANUAL, THE CITY SHALL ADHERE TO THE STATE FOREST CONSERVATION TECHNICAL MANUAL. A CITY FOREST CONSERVATION TECHNICAL MANUAL, IF ADOPTED BY THE DEPARTMENT, AND ANY AMENDMENTS THERETO AS THE DEPARTMENT SHALL ADOPT FROM TIME TO TIME, SHALL HAVE THE FORCE OF LAW AND SHALL NOT REQUIRE CITY COUNCIL REVIEW OR APPROVAL. THE LANGUAGE IN ANY CITY OF ANNAPOLIS TECHNICAL MANUAL, INCLUDING AMENDMENTS, THAT EXISTS ON THE DATE OF AN APPLICATION FOR FOREST CONSERVATION PLAN APPROVAL SHALL BE THE LANGUAGE THAT GOVERNS THE APPLICATION.

“FOREST CONSERVATION PLAN” MEANS A PLAN APPROVED PURSUANT TO THE NATURAL RESOURCES ARTICLE, §§5-1606 AND 5-1607, AND COMAR 08.19.

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

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

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

“FOREST MITIGATION BANK AGREEMENT” MEANS AN AGREEMENT BETWEEN THE CITY AND AN INDIVIDUAL OWNING A FOREST MITIGATION BANK THAT COMMITS THE BANKER TO CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING AND OPERATING THE FOREST MITIGATION BANK.

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

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

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

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

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

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

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

“LANDSCAPING PLAN” MEANS A PLAN WHICH:

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

“LINEAR PROJECT” MEANS A PROJECT WHICH:

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

ESTABLISHED EASEMENT RIGHTS.

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

“LOT” MEANS A UNIT OF LAND, THE BOUNDARIES OF WHICH HAVE BEEN ESTABLISHED THROUGH SUBDIVISION OF A LARGER PARCEL, WHICH WILL NOT BE THE SUBJECT OF FURTHER SUBDIVISION, AS DEFINED IN THE NATURAL RESOURCES ARTICLE, §5-1601, AND THIS CHAPTER, WITHOUT AN APPROVED FOREST STAND DELINEATION AND FOREST CONSERVATION PLAN.

“MAINTENANCE AGREEMENT” MEANS THE SHORT-TERM MANAGEMENT AGREEMENT ASSOCIATED WITH AFFORESTATION OR REFORESTATION PLANS REQUIRED PURSUANT TO THE NATURAL RESOURCES ARTICLE, §5-1605, AND THIS CHAPTER.

“MEDIUM DENSITY RESIDENTIAL AREAS” MEANS AREAS ZONED FOR DENSITIES GREATER THAN ONE DWELLING UNIT PER FIVE ACRES AND LESS THAN OR EQUAL TO ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED DEVELOPMENTS AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER SERVICE.

“MINOR DEVELOPMENT PROJECT” MEANS A PROJECT:

- A. ON LESS THAN FIVE ACRES OF LAND CONTAINING NOT MORE THAN FOUR LOTS PER ACRE; OR
- B. SUBSTANTIVELY SIMILAR AS THE DEPARTMENT DEFINES, WITH THE STATE’S APPROVAL.

“MIXED USE DEVELOPMENT” MEANS A SINGLE, RELATIVELY HIGH DENSITY DEVELOPMENT PROJECT, USUALLY COMMERCIAL IN NATURE, WHICH INCLUDES TWO OR MORE TYPES OF USES.

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

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

“NET TRACT AREAS” MEANS:

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

NON-TIDAL WETLANDS.

- A. “NON-TIDAL WETLANDS” MEANS AN AREA THAT:
 - 1. SURFACE OR GROUNDWATER INUNDATES OR SATURATES AT A FREQUENCY

AND DURATION SUFFICIENT TO SUPPORT, AND UNDER NORMAL CONDITIONS DOES SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS, COMMONLY KNOWN AS HYDROPHYTIC VEGETATION; OR

2. IS CONSIDERED A NON-TIDAL WETLAND IN ACCORDANCE WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S 1989 "FEDERAL MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLAND."
- B. "NON-TIDAL WETLANDS" DOES NOT INCLUDE TIDAL WETLANDS REGULATED PURSUANT TO THE NATURAL RESOURCES ARTICLE, TITLE 9.

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

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

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

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

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

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

"PLANNED DEVELOPMENT" MEANS A DEVELOPMENT THE CITY OF ANNAPOLIS HAS APPROVED AND IS COMPRISED OF A COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN ACCORDANCE WITH AN INTEGRATED PLAN WHICH PROVIDES FLEXIBILITY IN LAND USE DESIGN WITH AT LEAST 20% OF THE LAND PERMANENTLY DEDICATED TO OPEN SPACE.

"PRIORITY RETENTION AREA" MEANS A DEVELOPMENT AREA WHICH INCLUDES SPECIMEN TREES OF 24 INCHES OR GREATER DIAMETER AT BREAST HEIGHT (DBH);

"PROJECT PLAN" MEANS A LOCAL AGENCY'S CONSTRUCTION, GRADING, OR SEDIMENT CONTROL ACTIVITY ON AN AREA OF 40,000 SQUARE FEET OR GREATER.

"PUBLIC UTILITY" MEANS ANY: TRANSMISSION LINE OR ELECTRIC GENERATING STATION; OR WATER, SEWER, ELECTRIC, GAS, TELEPHONE, OR TELEVISION CABLE SERVICE LINE.

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

“REFORESTATION” MEANS

- A. CREATION OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS AND CONTAINING AT LEAST 100 LIVE TREES PER ACRE WITH AT LEAST 50% OF THOSE TREES HAVING THE POTENTIAL TO ATTAIN A TWO INCH OR GREATER DIAMETER MEASURED AT FOUR AND A HALF FEET ABOVE THE GROUND, WITHIN SEVEN YEARS;
- B. ESTABLISHMENT OF A FOREST ACCORDING TO PROCEDURES SET FORTH IN THE FOREST CONSERVATION TECHNICAL MANUAL;
- C. REFORESTATION OR REFORESTED INCLUDES LANDSCAPING OF AREAS UNDER AN APPROVED LANDSCAPING PLAN ESTABLISHING A FOREST AT LEAST 35 FEET WIDE AND COVERING 2,500 SQUARE FEET OR MORE OF AREA; AND
- D. REFORESTATION OR REFORESTED FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION LINES MAY CONSIST OF A BIOLOGICAL COMMUNITY WHERE TREES AND WOODY SHRUBS ARE PREDOMINATE WITH NO MINIMUM HEIGHT OR DIAMETER CRITERIA.

“REGULATED ACTIVITY” MEANS ANY OF THE FOLLOWING ACTIVITIES, WHEN SUCH ACTIVITY OCCURS ON A UNIT OF LAND WHICH IS 30,000 SQUARE FEET OR GREATER:

- A. SUBDIVISION;
- B. GRADING;
- C. TREE CLEARING, CUTTING OR DESTRUCTION;
- D. A LOCAL AGENCY’S PROJECT PLAN;
- E. PLANNED DEVELOPMENT; OR
- F. AN ACTIVITY WHERE A SEDIMENT CONTROL PERMIT IS REQUIRED.

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

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

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

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

“SIGNIFICANT TREE” MEANS A CHAMPION TREE, A SPECIMEN TREE, OR A TREE LOCATED WITHIN A FOREST WITH A DIAMETER OF 24 INCHES OR MORE, A TREE LOCATED OUTSIDE OF A FOREST WITH A DIAMETER OF 12 INCHES OR MORE, OR A TREE LOCATED WITHIN 25 FEET OF THE LIMITS OF DISTURBANCE WITH A DIAMETER OF SIX INCHES OR MORE.

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

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

“SUBDIVISION” MEANS A DIVISION OF A UNIT OF LAND INTO TWO OR MORE LOTS OR PARCELS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF TRANSFER OF OWNERSHIP, SALE, LEASE, OR DEVELOPMENT.

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

“TRACT FOR A PLANNED DEVELOPMENT” MEANS THE ENTIRE PROPERTY SUBJECT TO A PLANNED DEVELOPMENT.

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

“VARIANCE” IS AN EXEMPTION TO ONE OR MORE REQUIREMENTS IN THIS CHAPTER WHEN THE REQUIREMENT OR REQUIREMENTS WOULD RESULT IN UNWARRANTED HARDSHIP, AS DEFINED BY APPLICABLE LAW, TO THE PERSON. VARIANCE DOES NOT MEAN A ZONING VARIANCE.

“WATERSHED” MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED AS A SUB-BASIN IN WATER QUALITY REGULATIONS WHICH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT HAS ADOPTED PURSUANT TO COMAR 26.08.02.08.

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

17.13.020 - APPLICATION.

A. EXCEPT AS PROVIDED FOR ELSEWHERE IN THIS CHAPTER, THIS CHAPTER IS APPLICABLE TO:

1. A PERSON SUBMITTING AN APPLICATION FOR A PLANNED DEVELOPMENT, SUBDIVISION, PROJECT PLAN, GRADING, OR SEDIMENT CONTROL APPROVAL ON UNITS OF LAND 30,000 SQUARE FEET OR GREATER;
2. A PERSON REMOVING ANY TREES ON A UNIT OF LAND 30,000 SQUARE FEET OR GREATER;
3. A PUBLIC UTILITY, UNLESS SPECIFICALLY EXEMPTED IN THIS CHAPTER;
4. A UNIT OF COUNTY OR MUNICIPAL GOVERNMENT, INCLUDING A PUBLIC UTILITY OR PUBLIC WORKS PROJECT, SUBMITTING AN APPLICATION FOR A PLANNED DEVELOPMENT, SUBDIVISION, PROJECT PLAN, GRADING, OR SEDIMENT CONTROL APPROVAL ON AREAS 30,000 SQUARE FEET OR GREATER;

B. ANY PROJECT WHICH HAS NOT RECEIVED AN APPROVED FINAL FOREST CONSERVATION PLAN AND AN APPROVED FINAL GRADING PERMIT BEFORE THE EFFECTIVE DATE OF THIS ORDINANCE SHALL COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER AND THE FOREST CONSERVATION TECHNICAL MANUAL. FOREST CONSERVATION PLANS NOT IN COMPLIANCE WITH THIS CHAPTER AND THE FOREST CONSERVATION TECHNICAL MANUAL AND ARE UNDERGOING DEPARTMENTAL REVIEW AS OF THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE AMENDED, IF NECESSARY, TO COMPLY WITH THIS CHAPTER AND THE FOREST CONSERVATION TECHNICAL MANUAL.

- C. THIS CHAPTER SHALL NOT BE APPLICABLE TO:
1. HIGHWAY CONSTRUCTION ACTIVITIES PURSUANT TO THE NATURAL RESOURCES ARTICLE, §5-103;
 2. AGRICULTURAL ACTIVITIES THAT DO NOT RESULT IN A CHANGE TO THE LAND USE CATEGORY, INCLUDING AGRICULTURAL SUPPORT BUILDINGS AND OTHER RELATED STRUCTURES BUILT IN COMPLIANCE WITH THE CITY CODE. A PERSON ENGAGING IN AN AGRICULTURAL ACTIVITY CLEARING 40,000 SQUARE FEET OR GREATER OF FOREST WITHIN A ONE YEAR PERIOD MAY NOT RECEIVE AN AGRICULTURAL EXEMPTION, UNLESS SUCH PERSON FILES A DECLARATION OF INTENT THAT INCLUDES A STATEMENT THAT THE LANDOWNER OR LANDOWNER'S AGENT WILL PRACTICE AGRICULTURE ON THE SPECIFIC PORTION OF THE PROPERTY FOR FIVE YEARS FROM THE DATE OF THE DECLARATION OF INTENT, AND A SKETCH OF THE PROPERTY THAT SHOWS THE AREAS TO BE CLEARED;
 3. THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY LICENSED PURSUANT TO PUBLIC UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205, OR LAND FOR ELECTRIC GENERATING STATIONS LICENSED PURSUANT TO PUBLIC UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205, IF REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY HAVE BEEN ISSUED IN ACCORDANCE WITH THE NATURAL RESOURCES ARTICLE, §5-1603(F), AND CUTTING OR CLEARING OF THE FOREST IS CONDUCTED TO MINIMIZE THE LOSS OF FOREST;
 4. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF PUBLIC UTILITY RIGHTS-OF-WAY LICENSED PURSUANT TO PUBLIC UTILITY ARTICLE, §§7-207 AND 7-208 OR 7-205;
 5. ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF A PUBLIC UTILITY RIGHT-OF-WAY IF THE RIGHT-OF-WAY EXISTED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER, OR INITIAL CONSTRUCTION OF THE RIGHT-OF-WAY WAS APPROVED PURSUANT TO THIS CHAPTER;
 6. A RESIDENTIAL CONSTRUCTION ACTIVITY CONDUCTED ON AN EXISTING SINGLE LOT OF RECORD AT THE TIME OF APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE EXEMPTED ELSEWHERE IN THIS CHAPTER, IF THE ACTIVITY DOES NOT RESULT IN THE CUMULATIVE CUTTING, CLEARING, OR GRADING OF MORE THAN 10,000 SQUARE FEET OF FOREST, OR DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF A FOREST THAT IS SUBJECT TO THE REQUIREMENTS OF A PREVIOUS FOREST CONSERVATION PLAN APPROVED PURSUANT TO THIS CHAPTER;
 7. AN ACTIVITY REQUIRED FOR THE PURPOSE OF CONSTRUCTING A DWELLING UNIT INTENDED FOR THE OWNER'S USE, OR A CHILD OF THE OWNER, IF THE ACTIVITY DOES NOT RESULT IN CUTTING, CLEARING, OR GRADING OF MORE THAN 10,000 SQUARE FEET OF FOREST;
 8. A PRELIMINARY PLAN OF SUBDIVISION OR A GRADING OR SEDIMENT CONTROL PLAN APPROVED BEFORE JULY 1, 1991;
 9. A PLANNED DEVELOPMENT THAT, BY DECEMBER 31, 1991, HAS MET ALL REQUIREMENTS FOR PLANNED DEVELOPMENT APPROVAL AND HAS OBTAINED INITIAL DEVELOPMENT PLAN APPROVAL FROM THE DEPARTMENT;
 10. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD, OR OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A TRANSFER OF TITLE, OF A PORTION OF A LOT OR PARCEL, IF THE TRANSFER DOES NOT INVOLVE A CHANGE IN LAND USE, OR NEW DEVELOPMENT OR REDEVELOPMENT, WITH ASSOCIATED LAND-DISTURBING ACTIVITIES.
 11. AREAS GOVERNED PURSUANT TO THE CHESAPEAKE BAY CRITICAL AREA PROTECTION LAW, THE NATURAL RESOURCES ARTICLE, §§8-1801--8-1817, INCLUDING THOSE AREAS UNTO WHICH CRITICAL AREA FOREST PROTECTION

MEASURES HAVE BEEN EXTENDED PURSUANT TO THE NATURAL RESOURCES ARTICLE, §5-1602(C);

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

17.13.025 - GENERAL REQUIREMENTS.

- A. A PERSON SUBMITTING AN APPLICATION AFTER THE EFFECTIVE DATE OF THIS ORDINANCE FOR SUBDIVISION OR LOCAL LAND AGENCY PROJECT PLAN APPROVAL, A GRADING PERMIT, OR A SEDIMENT CONTROL PERMIT FOR AN AREA OF 40,000 SQUARE FEET OR GREATER SHALL:
1. SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION AND A PRELIMINARY AND FINAL FOREST CONSERVATION PLAN FOR THE LOT OR PARCEL ON WHICH THE DEVELOPMENT IS TO BE LOCATED; AND
 2. USE METHODS THE DEPARTMENT APPROVES, AS DETAILED IN THE FOREST CONSERVATION TECHNICAL MANUAL, TO PROTECT RETAINED FORESTS AND TREES DURING CONSTRUCTION. UNTIL SUCH TIME THAT THE CITY PUBLISHES ITS OWN FOREST CONSERVATION TECHNICAL MANUAL, THE DEPARTMENT SHALL APPLY THE STANDARDS SET FORTH IN THE STATE FOREST CONSERVATION TECHNICAL MANUAL.
- B. THE DEPARTMENT SHALL PREPARE AND PUBLISH A FOREST CONSERVATION TECHNICAL MANUAL, WHICH SHALL INCLUDE, WITHOUT LIMITATION:
1. ANY METHODS THE DEPARTMENT APPROVES TO PROTECT RETAINED FORESTS AND TREES DURING CONSTRUCTION;
 2. A DEFINITION OF "PRIORITY RETENTION AREA" IN DEVELOPMENT AREAS WHICH INCLUDES SPECIMEN TREES OF 24 INCHES OR GREATER DIAMETER AT BREST HEIGHT (DBH);
 3. A DEFINITION OF "HEALTHY FORESTS" AS A BIOLOGICAL COMMUNITY WHERE TREES AND OTHER WOODY PLANTS DOMINATE AND COVER A LAND AREA OF 10,000 SQUARE FEET OR GREATER, WITH AT LEAST 70% CANOPY CLOSURE, ADEQUATE TREE STOCKING, NOTICEABLE TREE RECRUITMENT (INCLUDING MID-TO-LATE SUCCESSIONAL SPECIES), LESS THAN 35% AREA COVERAGE OF INVASIVE SPECIES, AND RELATIVELY FREE OF INSECT, DISEASE, STORM, AND OTHER DAMAGE (LESS THAN 45% CANOPY MORTALITY), AS THE CITY ENVIRONMENTALIST SHALL SO DETERMINE;
 4. A REQUIREMENT THAT ENVIRONMENTAL FEATURES MAPS SHALL INCLUDE STEEP SLOPES, "HEALTHY FORESTS," AND TREES MEASURING 24 INCHES OR GREATER DBH, STREAMS, AND WETLANDS.

17.13.030 - LOCAL AGENCY APPLICATION

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

17.13.035 - FOREST STAND DELINEATION CRITERIA

- A. AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT A FOREST STAND DELINEATION AND NATURAL RESOURCES INVENTORY, WHEN REQUIRED, PRIOR TO THE INITIAL STAGES OF A DEVELOPMENT PLAN APPROVAL PROCEDURE PURSUANT TO CHAPTER 21.10 OF THE CITY

CODE AND BEFORE THE APPLICANT'S SUBMISSION TO THE DEPARTMENT OF A SITE DESIGN PLAN, GRADING, OR SEDIMENT CONTROL PERMIT APPLICATION FOR THE LAND PROPOSED TO BE DEVELOPED.

1. UPON AN APPLICANT'S SUBMITTAL, THE DEPARTMENT, NO LATER THAN THREE BUSINESS DAYS AFTER RECEIPT, SHALL POST THE FOREST STAND DELINEATION ON THE DEPARTMENT'S WEBSITE FOR AT LEAST 30 BUSINESS DAYS AND PROVIDE DIRECTIONS ON HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS ON THE FOREST STAND DELINEATION TO THE DEPARTMENT. THE WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY OF THE APPLICANT'S AMENDMENTS OR CHANGES TO THE FOREST STAND DELINEATION.
 2. THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND OTHER INFORMATION RECEIVED ON THE FOREST STAND DELINEATION AFTER THE 30 BUSINESS DAY WEBSITE POSTING TIME PERIOD FOR PUBLIC COMMENTS HAS ENDED. DEPARTMENT STAFF SHALL BE GIVEN AT LEAST 5 BUSINESS DAYS TO CONSIDER AND INCORPORATE THE PUBLIC COMMENTS RECEIVED INTO THEIR RECOMMENDATIONS.
- B. A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A., SHALL PREPARE THE FOREST STAND DELINEATION. ONLY A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A. SHALL CONDUCT THE DEPARTMENT'S REVIEW OF THE FOREST STAND DELINEATION.
- C. AT THE DISCRETION OF THE DEPARTMENT, A CERTIFIED WETLAND DELINEATOR CHOSEN AND HIRED BY THE DEPARTMENT, SHALL PREPARE THE WETLAND DELINEATION COMPONENT OF THE FOREST STAND DELINEATION. PAYMENT FOR THE COST OF THE DELINEATION SERVICES SHALL BE PAID BY THE APPLICANT IN ADVANCE. A FOREST STAND DELINEATION SHALL NOT BE CONSIDERED COMPLETE UNLESS THE WETLAND DELINEATION IS INCLUDED. THE DEPARTMENT SHALL HAVE A PERSON QUALIFIED TO UNDERTAKE A WETLAND DELINEATION REVIEW THE WETLAND DELINEATION COMPONENT OF THE FOREST STAND DELINEATION. THE DEPARTMENT SHALL NOT BE REQUIRED TO CERTIFY A FOREST STAND DELINEATION AS COMPLETE AND CORRECT UNTIL IT IS SATISFIED THAT THE WETLAND DELINEATION COMPONENT HAS BEEN PROPERLY AND CORRECTLY REVIEWED BY A PERSON QUALIFIED TO UNDERTAKE SUCH A REVIEW.
- D. THE FOREST STAND DELINEATION SHALL BE USED DURING THE PRELIMINARY REVIEW PROCESS TO DETERMINE THE MOST SUITABLE AND PRACTICAL AREAS FOR FOREST CONSERVATION AND SHALL CONTAIN THE FOLLOWING COMPONENTS:
1. A TOPOGRAPHIC MAP DELINEATING INTERMITTENT AND PERENNIAL STREAMS, AND STEEP SLOPES ;
 2. A SOIL MAP DELINEATING SOILS WITH STRUCTURAL LIMITATIONS, HYDRIC SOILS, OR SOILS WITH A SOIL K VALUE GREATER THAN 0.35 ON STEEP SLOPES;
 3. A FOREST STAND MAP INDICATING SPECIES, LOCATION, AND SIZE OF TREES AND INDICATING DOMINANT AND CO-DOMINANT FOREST TYPES;
 4. THE LOCATION OF 100-YEAR FLOODPLAINS;
 5. THE LOCATION OF ALL WETLANDS AND NON-TIDAL WETLANDS;
 6. ANY INFORMATION REQUIRED IN THE FOREST CONSERVATION TECHNICAL MANUAL; AND
 7. ANY OTHER ADDITIONAL INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, A WETLAND DELINEATION.
 8. IN ADDITION TO THE REQUIRED NUMBER OF COPIES, ALL SUBMITTALS SHALL ALSO BE SUBMITTED IN ELECTRONIC FORMAT. AN APPLICATION SHALL NOT BE ACCEPTED

UNLESS THE ELECTRONIC FORMAT VERSION ACCOMPANIES THE FSD MATERIALS.

- E. IF NO FOREST COVER WILL BE DISTURBED DURING ANY CONSTRUCTION ACTIVITY, THEN THE DEPARTMENT MAY APPROVE A SIMPLIFIED DELINEATION, A CONCEPT PLAN OR PLAT, PRELIMINARY PLAT OR PLAN, SEDIMENT CONTROL PLAN, OR OTHER APPROPRIATE DOCUMENT THE CONTENTS OF WHICH A SITE VISIT MAY VERIFY, WHICH MAY BE SUBSTITUTED FOR THE FOREST STAND DELINEATION AND THE DOCUMENT IS DESIGNATED TO BE SUBJECT TO A LONG TERM PROTECTIVE AGREEMENT.
- F. WITHIN 10 BUSINESS DAYS AFTER THE STAFF COMPLETES ITS REVIEW OF THE FOREST STAND DELINEATION OR OTHER SIMPLIFIED OR SUBSTITUTE PLAN, THE DEPARTMENT SHALL DETERMINE WHETHER TO CERTIFY THE FOREST STAND DELINEATION OR OTHER SIMPLIFIED OR SUBSTITUTE PLAN, AS COMPLETE AND CORRECT. THE DEPARTMENT SHALL MAKE A CERTIFICATION OF COMPLETE AND CORRECT IF THE CITY ENVIRONMENTALIST DETERMINES THAT THE FOREST STAND DELINEATION OR OTHER SIMPLIFIED OR SUBSTITUTE PLAN MEETS ALL REQUIREMENTS OF THIS CHAPTER AND CONTAINS A MAP SHOWING EXISTING FOREST COVER AS VERIFIED BY FIELD INSPECTION, AND ANY OTHER ADDITIONAL INFORMATION WHICH THE DEPARTMENT MAY REQUIRE. IF THE DEPARTMENT DETERMINES THAT ADDITIONAL DOCUMENTATION IS REQUIRED FROM THE APPLICANT IN ORDER TO CONSIDER A CERTIFICATION OF COMPLETE AND CORRECT, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING (VIA EMAIL OR REGULAR MAIL) TO THIS EFFECT WITHIN THIS 10 BUSINESS DAY PERIOD OR EARLIER IF FEASIBLE AND SPECIFY THE ADDITIONAL DOCUMENTATION THE DEPARTMENT REQUIRES IN ORDER TO CONSIDER SUCH CERTIFICATION, AND THE DEPARTMENT SHALL HAVE 15 BUSINESS DAYS AFTER RECEIPT OF SUCH DOCUMENTATION TO DETERMINE WHETHER TO CERTIFY AS COMPLETE AND CORRECT.
- G. ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND ITS STAFF SHALL BE MADE AVAILABLE ONLINE IN THE CITY'S PERMIT TRACKING DATABASE.
- H. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY ALLOW ITSELF 10 ADDITIONAL BUSINESS DAYS TO COMPLETE ITS REVIEW OF THE FOREST STAND DELINEATION. THE DEPARTMENT SHALL GIVE WRITTEN NOTIFICATION TO THE APPLICANT TO THIS EFFECT AS SOON AS FEASIBLE, BUT NO LATER THAN THE LAST DAY ALLOWABLE FOR ITS REVIEW.
- I. ONLY WITH THE APPROVAL OF THE CITY ENVIRONMENTALIST DOES THE DEPARTMENT HAVE THE AUTHORITY TO CERTIFY A FOREST STAND DELINEATION AS COMPLETE AND CORRECT OR TO SUSPEND OR REVOKE A CERTIFICATION AS COMPLETE OR CORRECT.
- J. A FOREST STAND DELINEATION MAY REMAIN IN EFFECT FOR A PERIOD OF TIME NOT TO EXCEED 5 YEARS FROM THE DATE IT IS CERTIFIED BY THE DEPARTMENT AS COMPLETE AND CORRECT.
- K. THE DEPARTMENT MAY SUSPEND OR REVOKE A FOREST STAND DELINEATION THAT THE DEPARTMENT HAS CERTIFIED AS COMPLETE AND CORRECT IF IT FINDS THAT:
1. THE APPLICANT OBTAINED CERTIFICATION OF THE FOREST STAND DELINEATION THROUGH FRAUD, MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT, OR OMISSION OF A RELEVANT OR MATERIAL FACTOR;
 2. CHANGES IN THE CONDITION OF THE SITE NECESSITATE THE PREPARATION OF A NEW OR AMENDED FOREST STAND DELINEATION; OR
 3. THERE HAVE BEEN CHANGES TO LAWS OR REGULATIONS THAT IMPACT THE DEPARTMENT'S REVIEW OF THE FOREST STAND DELINEATION.
- L. THE DEPARTMENT SHALL NOTIFY THE APPLICANT AND PROVIDE THE APPLICANT WITH AN

OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT DIRECTOR OR HIS OR HER DESIGNEE BEFORE SUSPENDING OR REVOKING THE APPROVAL OF A FOREST STAND DELINEATION.

- M. THE DECISION OF THE DEPARTMENT DIRECTOR THAT A FOREST STAND DELINEATION IS COMPLETE AND CORRECT, OR THAT IT IS NOT COMPLETE AND CORRECT, IS NOT APPEALABLE TO ANY CITY ADMINISTRATIVE BODY OR TO ANY COURT, OR IN ANY OTHER MANNER, EITHER BY THE APPLICANT OR ANY OTHER PERSON OR ENTITY.

17.13.040 - FOREST CONSERVATION PLAN

A. GENERAL PROVISIONS

1. A PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL BE BASED ON A FOREST STAND DELINEATION THAT THE DEPARTMENT HAS CERTIFIED AS COMPLETE AND CORRECT. A PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL GIVE PRIORITY TO, AND PROVIDE FOR, THE PROTECTION AND MAINTENANCE OF ANY FOREST OR SIGNIFICANT TREES WITHIN THE FOREST STAND DELINEATION AREA WHICH THE PROPOSED DEVELOPMENT ACTIVITY FOR THE TRACT MAY ADVERSELY AFFECT.
2. WHERE THE EXISTING FOREST AND INDIVIDUAL SIGNIFICANT TREES CANNOT BE RETAINED, THE FOREST CONSERVATION PLAN SHALL PROVIDE FOR TREE REPLACEMENT, REFORESTATION AND AFFORESTATION IN ACCORDANCE WITH THIS CHAPTER AND CHAPTER 17.09 OF THE CITY CODE.
3. A REGULATED ACTIVITY WITHIN THE NET TRACT AREA THAT OCCURS WHOLLY OR PARTLY IN AREAS THAT THE ENVIRONMENT ARTICLE, TITLE 9, OF THE ANNOTATED CODE OF MARYLAND, REGULATES AS NON-TIDAL WETLANDS IS SUBJECT TO BOTH THE NON-TIDAL WETLANDS REGULATORY REQUIREMENTS AND THE REQUIREMENTS OF THIS CHAPTER, IN ACCORDANCE WITH THE FOLLOWING:
 - A. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING FOREST IN NON-TIDAL WETLANDS THAT IS RETAINED, SHALL BE COUNTED TOWARDS THE FOREST CONSERVATION REQUIREMENTS PURSUANT TO THIS CHAPTER;
 - B. FOR THE PURPOSES OF CALCULATING REFORESTATION MITIGATION PURSUANT TO THIS CHAPTER, A FORESTED NON-TIDAL WETLAND THAT IS PERMITTED TO BE CUT OR CLEARED AND APPROPRIATELY MITIGATED PURSUANT TO THE ENVIRONMENT ARTICLE, TITLE 9, OF THE ANNOTATED CODE OF MARYLAND, SHALL BE SHOWN ON THE FOREST CONSERVATION PLAN, THEN SUBTRACTED ON AN ACRE-FOR-ACRE BASIS FROM THE TOTAL AMOUNT OF FOREST TO BE CUT OR CLEARED AS PART OF A REGULATED ACTIVITY;
 - C. NON-TIDAL WETLANDS SHALL BE CONSIDERED AS PRIORITY AREAS FOR RETENTION AND REPLACEMENT;
 - D. FORESTED NON-TIDAL WETLAND IDENTIFICATION AND DELINEATION SHALL BE INCLUDED AT THE EARLIEST STAGE OF PLANNING IN ORDER TO ASSIST THE APPLICANT BY AVOIDING AND REDUCING IMPACTS TO NON-TIDAL WETLANDS.

B. PRELIMINARY FOREST CONSERVATION PLAN

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

2. A PRELIMINARY FOREST CONSERVATION PLAN SHALL BE SUBMITTED TO THE DEPARTMENT PRIOR TO AN APPLICANT'S SUBMISSION TO THE PLANNING COMMISSION. A PRELIMINARY FOREST CONSERVATION PLAN THAT HAS BEEN APPROVED BY THE CITY ENVIRONMENTALIST SHALL BE USED BY THE APPLICANT TO PREPARE A SUBMISSION TO THE PLANNING COMMISSION.

3. A PRELIMINARY FOREST CONSERVATION PLAN SHALL INCLUDE:
 - A. THE PRELIMINARY PLAN OF SUBDIVISION OR THE PROPOSED PROJECT PLAN DURING SITE DESIGN REVIEW PRIOR TO THE APPLICANT'S SUBMISSION TO THE PLANNING COMMISSION;
 - B. THE SITE'S FOREST STAND DELINEATION THAT THE DEPARTMENT HAS CERTIFIED AS COMPLETE AND CORRECT;
 - C. A TABLE THAT LISTS THE PROPOSED VALUES OF THE FOLLOWING, IN SQUARE FEET:
 - I. NET TRACT AREA;
 - II. AREA OF FOREST CONSERVATION REQUIRED; AND
 - III. AREA OF FOREST CONSERVATION THAT THE APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH ON-SITE AND OFF-SITE AREA.
 - D. A GRAPHIC DEMONSTRATION OF THE FOREST CONSERVATION AREAS PROVIDED ON THE SITE DRAWN TO SCALE, WHICH SHALL ILLUSTRATE AREAS WHERE THE APPLICANT PROPOSES RETENTION OF EXISTING FOREST, OR AFFORESTATION OR REFORESTATION;
 - E. AN EXPLANATION OF HOW THE REQUIREMENTS OF SECTION 17.13.040 OF THE CITY CODE HAVE BEEN MET;
 - F. A PROPOSED AFFORESTATION OR REFORESTATION PLAN, WHERE APPROPRIATE;
 - G. A PROPOSED CONSTRUCTION TIMETABLE LISTING THE SEQUENCE OF FOREST CONSERVATION PROCEDURES;
 - H. AN ILLUSTRATION OF THE PROPOSED LIMITS OF DISTURBANCE;
 - I. AN ILLUSTRATION OF THE PROPOSED STOCKPILE AREAS;
 - J. A PROPOSED TWO YEAR MAINTENANCE AGREEMENT THAT EXPLAINS HOW AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION SHALL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT;
 - K. A STATEMENT OF HOW THE PROJECT WILL FURTHER THE CITY'S TREE CANOPY COVERAGE GOAL, SET IN CONJUNCTION WITH THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, TO INCREASE THE CITY'S TREE CANOPY COVERAGE TO 50% BY 2036 FROM THE 2006 DETERMINATION OF THE MARYLAND DEPARTMENT OF NATURAL RESOURCES THAT THE CITY'S TREE CANOPY HAD 41% COVERAGE; AND
 - L. ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS CHAPTER AND THE FOREST CONSERVATION ACT TECHNICAL MANUAL.

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

5. THE APPLICANT SHALL PROVIDE WRITTEN JUSTIFICATION FOR THE PROPOSED USE AND LOCATION OF NON-PRIORITY RETENTION AREAS, AND WRITTEN JUSTIFICATION FOR ON-SITE AND OFF-SITE AFFORESTATION, REFORESTATION, AND/OR TREE REPLACEMENT AREAS

6. THE APPLICANT MAY MODIFY THE PRELIMINARY FOREST CONSERVATION PLAN THROUGHOUT THE REVIEW PROCESS.

7. UPON AN APPLICANT'S SUBMITTAL, THE DEPARTMENT SHALL, NO LATER THAN THREE BUSINESS DAYS AFTER RECEIPT, POST THE PRELIMINARY FOREST CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE FOR AT LEAST 30 BUSINESS DAYS AND PROVIDE DIRECTIONS ON HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS ON THE PRELIMINARY FOREST CONSERVATION PLAN TO THE DEPARTMENT. THE WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY OF THE APPLICANT'S AMENDMENTS OR CHANGES TO THE PRELIMINARY FOREST CONSERVATION PLAN. THE APPLICANT SHALL POST THE PROPERTY FOR THE SAME TIME AND IN THE SAME MANNER AS REQUIRED OF THE DEPARTMENT.
8. THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND OTHER INFORMATION RECEIVED ON THE PRELIMINARY FOREST CONSERVATION PLAN AFTER THE 30 BUSINESS DAY WEBSITE POSTING TIME PERIOD FOR PUBLIC COMMENTS HAS ENDED. DEPARTMENT STAFF SHALL BE GIVEN AT LEAST 5 WORKING DAYS TO CONSIDER AND INCORPORATE THE PUBLIC COMMENTS RECEIVED.
9. THE DEPARTMENT SHALL SCHEDULE A PUBLIC HEARING ON THE PRELIMINARY FOREST CONSERVATION PLAN IF A PERSON SUBMITS A WRITTEN REQUEST FOR A PUBLIC HEARING WITHIN 20 BUSINESS DAYS AFTER THE POSTING OF THE PRELIMINARY FOREST CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL SCHEDULE A PUBLIC HEARING WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF SUCH REQUEST, AND THE PUBLIC HEARING SHALL OCCUR WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST. THE DEPARTMENT SHALL POST NOTICE OF THE DATE OF THE PUBLIC HEARING ON THE DEPARTMENT'S WEBSITE AT LEAST 15 DAYS IN ADVANCE OF THE PUBLIC HEARING, AND PRESIDE AT AND MANAGE THE PUBLIC HEARING. ANY MEMBER OF THE PUBLIC MAY GIVE TESTIMONY AT THE PUBLIC HEARING. THE CITY SHALL RECORD THIS HEARING AND MAKE THE RECORD AVAILABLE TO THE PUBLIC AS SOON AS FEASIBLE.
10. WITHIN 45 BUSINESS DAYS AFTER THE DEPARTMENT'S WEBSITE POSTING FOR PUBLIC COMMENT HAS ENDED OR THE COMPLETION OF THE PUBLIC HEARING, WHICHEVER IS LATER, THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND ANY OTHER INFORMATION RECEIVED ON THE PRELIMINARY FOREST CONSERVATION PLAN, AND NOTIFY THE APPLICANT IN WRITING VIA EMAIL OR REGULAR MAIL WHETHER THE DEPARTMENT HAS APPROVED THE PRELIMINARY FOREST CONSERVATION PLAN. IF THE DEPARTMENT DETERMINES THAT ADDITIONAL DOCUMENTATION IS REQUIRED FROM THE APPLICANT IN ORDER TO CONSIDER APPROVAL, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING VIA EMAIL OR REGULAR MAIL TO THIS EFFECT WITHIN SUCH 45 BUSINESS DAY PERIOD AND SPECIFY THE ADDITIONAL DOCUMENTATION THE DEPARTMENT REQUIRES IN ORDER TO CONSIDER APPROVAL, AND THE DEPARTMENT SHALL HAVE 45 CALENDAR DAYS AFTER RECEIPT OF SUCH DOCUMENTATION TO DETERMINE WHETHER TO APPROVE, DENY, OR REQUIRE REVISIONS TO THE PRELIMINARY FOREST CONSERVATION PLAN.
11. AT THE DISCRETION OF DIRECTOR, AN APPLICANT SHALL BE REQUIRED TO ATTEND COMMUNITY OUTREACH MEETINGS TO DISCUSS THE PROPOSED DEVELOPMENT PROJECT. IF COMMUNITY OUTREACH MEETINGS ARE REQUIRED, THE FOREST CONSERVATION PLAN SHALL NOT BE CONSIDERED FINAL UNLESS MEETINGS ARE HELD AND COMPLETED. THE DIRECTOR SHALL DETERMINE THE NUMBER OF MEETINGS TO BE HELD AND SHALL REQUIRE THE APPLICANT TO PROVIDE ADEQUATE NOTICE OF THE PUBLIC MEETING BY POSTING THE PROPERTY AT LEAST FIFTEEN (15) DAYS IN ADVANCE

OF EACH PUBLIC MEETING AND BY PUBLICATION IN THE LOCAL NEWSPAPER ONE TIME AT LEAST FIFTEEN (15) DAYS IN ADVANCE OF EACH PUBLIC MEETING.

12. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY ALLOW ITSELF 10 ADDITIONAL BUSINESS DAYS TO COMPLETE THE REVIEW OF A PRELIMINARY FOREST CONSERVATION PLAN. THE DEPARTMENT SHALL GIVE WRITTEN NOTIFICATION TO THE APPLICANT TO THIS EFFECT WITHIN THE ORIGINAL 45 DAY CALENDAR PERIOD TO COMPLETE REVIEW.
 13. ONLY WITH THE APPROVAL OF THE CITY ENVIRONMENTALIST DOES THE DEPARTMENT DIRECTOR HAVE THE AUTHORITY TO APPROVE, SUSPEND OR REVOKE A PRELIMINARY FOREST CONSERVATION PLAN.
 14. THE DEPARTMENT SHALL APPROVE A PRELIMINARY FOREST CONSERVATION PLAN IF THE DEPARTMENT FINDS THAT IT COMPLIES WITH THE REQUIREMENTS OF THIS CHAPTER.
 15. ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND ITS STAFF SHALL BE MADE AVAILABLE ONLINE IN THE CITY'S PERMIT TRACKING SOFTWARE.
 16. A PRELIMINARY FOREST CONSERVATION PLAN THAT THE DEPARTMENT HAS APPROVED SHALL REMAIN IN EFFECT, AND SHALL SERVE AS THE BASIS FOR THE FINAL FOREST CONSERVATION PLAN IN REGARDS TO FOREST AND TREE RETENTION, UNTIL THE APPLICANT SUBMITS A FINAL FOREST CONSERVATION PLAN TO THE DEPARTMENT.
- C. ANY DECISION OF THE DEPARTMENT DIRECTOR REGARDING A PRELIMINARY FOREST CONSERVATION PLAN IS NOT APPEALABLE TO ANY CITY ADMINISTRATIVE BODY OR TO ANY COURT, OR IN ANY OTHER MANNER, EITHER BY THE APPLICANT OR ANY OTHER PERSON OR ENTITY.
- D. FINAL FOREST CONSERVATION PLAN
1. A LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A SHALL PREPARE A FINAL FOREST CONSERVATION PLAN. ONLY A LICENSED FORESTER, LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A. SHALL CONDUCT THE DEPARTMENT'S REVIEW OF THE FINAL FOREST CONSERVATION PLAN.
 2. AN APPROVED PRELIMINARY FOREST CONSERVATION PLAN SHALL REMAIN IN EFFECT, AND SHALL SERVE AS THE BASIS FOR THE FINAL FOREST CONSERVATION PLAN WITH RESPECT TO FOREST AND TREE RETENTION UNTIL SUBMITTED TO THE DEPARTMENT AS A FINAL FOREST CONSERVATION PLAN.
 3. IF THE CITY ENVIRONMENTALIST DETERMINES THAT AN APPLICANT HAS SUBSTANTIALLY ALTERED A FINAL FOREST CONSERVATION PLAN FROM THE PRELIMINARY FOREST CONSERVATION PLAN THAT THE DEPARTMENT HAS APPROVED, THEN THE REQUIREMENTS OF THIS CHAPTER PERTAINING TO WEBSITE POSTING, THE WRITTEN COMMENT PERIOD, PUBLIC HEARING, AND APPEAL PROCESS SHALL RESET AND APPLY.
 4. A FINAL FOREST CONSERVATION PLAN SHALL:
 - A. BE SUBMITTED PRIOR TO OR WITH AN APPLICATION FOR A GRADING PERMIT, OR AN APPLICATION FOR A SEDIMENT CONTROL PERMIT;
 - B. ILLUSTRATE PROPOSED LOCATIONS AND TYPES OF PROTECTIVE DEVICES TO BE

- USED DURING CONSTRUCTION ACTIVITIES TO PROTECT TREES AND FORESTS DESIGNATED FOR CONSERVATION;
- C. INCLUDE AN AFFORESTATION OR REFORESTATION PLAN, WHERE APPROPRIATE, WITH A TIMETABLE AND DESCRIPTION OF NEEDED SITE AND SOIL PREPARATION, SPECIES, SIZE, AND SPACING;
 - D. INCORPORATE A BINDING TWO-YEAR MAINTENANCE AGREEMENT SPECIFIED IN COMAR 08.19.05.01 THAT DETAILS HOW THE AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION SHALL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY GROWTH, INCLUDING WATERING AND REINFORCEMENT PLANTING PROVISION IF SURVIVAL RATES FALL BELOW REQUIRED STANDARDS, AS SHALL BE STATED IN THE FOREST CONSERVATION TECHNICAL MANUAL;
 - E. INCORPORATE A LONG-TERM BINDING PROTECTIVE AGREEMENT AS SPECIFIED IN COMAR 08.19.05.02 THAT PROVIDES PROTECTION FOR AREAS OF FOREST CONSERVATION, INCLUDING AREAS OF AFFORESTATION, REFORESTATION, AND RETENTION, ADHERES TO FOREST MANAGEMENT PRACTICES THAT ARE USED TO PRESERVE FOREST, AND DEFINES RESTRICTIONS ON DESIGNATED AREAS OF FOREST CONSERVATION FOR ACTIVITIES SUCH AS RECREATION;
 - F. ADDRESS THE SUBSTANTIVE ELEMENTS OF SECTION 17.13.040 B. OF THIS CHAPTER THAT THE DEPARTMENT DEEMS NECESSARY AS ELEMENTS OF THE FINAL FOREST CONSERVATION PLAN;
 - G. INCLUDE ANY OTHER ADDITIONAL INFORMATION AS THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.
- 5. THE APPLICANT MAY MODIFY THE FINAL FOREST CONSERVATION PLAN THROUGHOUT THE REVIEW PROCESS, AS LONG AS IT HAS NOT RECEIVED FINAL APPROVAL.
 - 6. UPON AN APPLICANT'S SUBMITTAL, THE DEPARTMENT SHALL, NO LATER THAN THREE BUSINESS DAYS AFTER RECEIPT, POST THE FINAL FOREST CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE FOR AT LEAST 30 BUSINESS DAYS AND PROVIDE DIRECTIONS ON HOW THE PUBLIC MAY SEND OR DELIVER WRITTEN COMMENTS ON THE FINAL FOREST CONSERVATION PLAN TO THE DEPARTMENT. THE WEBSITE POSTING REQUIREMENT SHALL APPLY TO ANY OF THE APPLICANT'S AMENDMENTS OR CHANGES TO THE FINAL FOREST CONSERVATION PLAN.
 - 7. THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND OTHER INFORMATION RECEIVED ON THE FINAL FOREST CONSERVATION PLAN AFTER THE 30 BUSINESS DAY WEBSITE POSTING TIME PERIOD FOR PUBLIC COMMENTS HAS ENDED. DEPARTMENT STAFF SHALL BE GIVEN AT LEAST 5 BUSINESS DAYS TO CONSIDER AND INCORPORATE THE PUBLIC COMMENTS RECEIVED.
 - 8. IF A PERSON SUBMITS A WRITTEN REQUEST FOR A PUBLIC HEARING WITHIN 20 BUSINESS DAYS AFTER THE POSTING THE FINAL FOREST CONSERVATION PLAN ON THE DEPARTMENT'S WEBSITE, THEN THE DEPARTMENT SHALL SCHEDULE A PUBLIC HEARING ON THE FINAL FOREST CONSERVATION PLAN. THE DEPARTMENT SHALL SCHEDULE THE PUBLIC HEARING WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF SUCH REQUEST, AND THE PUBLIC HEARING SHALL OCCUR NO SOONER THAN 15 AND NO LATER THAN 30 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST. THE DEPARTMENT SHALL POST NOTICE OF THE DATE OF THE PUBLIC HEARING ON THE DEPARTMENT'S WEBSITE AT LEAST 15 DAYS IN ADVANCE OF THE PUBLIC HEARING, AND PRESIDE AT AND MANAGE THE PUBLIC HEARING. ANY MEMBER OF THE PUBLIC MAY GIVE TESTIMONY AT THE PUBLIC HEARING. THE CITY SHALL RECORD THIS HEARING AND MAKE IT AVAILABLE TO THE PUBLIC AS SOON AS FEASIBLE.

9. WITHIN 45 BUSINESS DAYS AFTER THE DEPARTMENT'S WEBSITE POSTING FOR PUBLIC COMMENT HAS ENDED OR THE COMPLETION OF THE PUBLIC HEARING, WHICHEVER IS LATER, THE DEPARTMENT SHALL CONSIDER THE WRITTEN COMMENTS, TESTIMONY, AND ANY OTHER INFORMATION RECEIVED ON THE FINAL FOREST CONSERVATION PLAN AND NOTIFY THE APPLICANT IN WRITING (VIA EMAIL OR REGULAR MAIL) WHETHER THE DEPARTMENT HAS APPROVED THE FINAL FOREST CONSERVATION PLAN. IF THE DEPARTMENT DETERMINES THAT ADDITIONAL DOCUMENTATION IS REQUIRED FROM THE APPLICANT IN ORDER TO CONSIDER APPROVAL, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING (VIA EMAIL OR REGULAR MAIL) TO THIS EFFECT WITHIN SUCH 45 BUSINESS DAY PERIOD AND SPECIFY THE ADDITIONAL DOCUMENTATION THE DEPARTMENT REQUIRES IN ORDER TO CONSIDER APPROVAL, AND THE DEPARTMENT SHALL HAVE 45 CALENDAR DAYS AFTER RECEIPT OF SUCH DOCUMENTATION TO DETERMINE WHETHER TO APPROVE, DENY, OR REQUIRE REVISIONS TO THE FINAL FOREST CONSERVATION PLAN.
10. THE CITY SHALL MAKE ALL REVIEW COMMENTS MADE BY THE DEPARTMENT AND ITS STAFF AVAILABLE ONLINE IN THE CITY'S PERMIT TRACKING SOFTWARE AS SOON AS FEASIBLE.
11. AT THE DEPARTMENT'S SOLE DISCRETION, THE DEPARTMENT MAY ALLOW ITSELF 10 ADDITIONAL BUSINESS DAYS TO COMPLETE ITS REVIEW OF A FINAL FOREST CONSERVATION PLAN. THE DEPARTMENT SHALL GIVE WRITTEN NOTIFICATION TO THE APPLICANT TO THIS EFFECT WITHIN THE ORIGINAL 45 DAY CALENDAR PERIOD TO COMPLETE REVIEW.
12. ONLY WITH THE APPROVAL OF THE CITY ENVIRONMENTALIST DOES THE DEPARTMENT DIRECTOR HAVE THE AUTHORITY TO APPROVE, DENY, SUSPEND OR REVOKE A FINAL FOREST CONSERVATION PLAN
13. THE DEPARTMENT HAS THE AUTHORITY TO SUSPEND OR REVOKE A FINAL FOREST CONSERVATION PLAN THAT THE DEPARTMENT HAS APPROVED IF IT FINDS THAT:
 - A. A PROVISION OF THE FINAL FOREST CONSERVATION PLAN HAS BEEN VIOLATED;
 - B. THE APPLICANT OBTAINED APPROVAL OF THE FINAL FOREST CONSERVATION PLAN THROUGH FRAUD, MISREPRESENTATION, A FALSE OR MISLEADING STATEMENT, OR OMISSION OF A RELEVANT OR MATERIAL FACTOR;
 - C. CHANGES TO THE DEVELOPMENT OR IN THE CONDITION OF THE SITE NECESSITATE THE PREPARATION OF A NEW OR AMENDED FINAL FOREST CONSERVATION PLAN; OR
 - D. THERE HAVE BEEN CHANGES TO LAWS OR REGULATIONS THAT IMPACT THE DEPARTMENT'S REVIEW OF THE FINAL FOREST CONSERVATION PLAN.
14. THE DEPARTMENT SHALL NOTIFY THE APPLICANT AND PROVIDE THE APPLICANT WITH AN OPPORTUNITY FOR A HEARING BEFORE THE DEPARTMENT DIRECTOR OR HIS OR HER DESIGNEE BEFORE SUSPENDING OR REVOKING THE APPROVAL OF A FINAL FOREST CONSERVATION PLAN.
15. IF THE DIRECTOR OF THE DEPARTMENT APPROVES OR DENIES OR SUSPENDS OR REVOKES AN APPLICANT'S FINAL FOREST CONSERVATION PLAN, SUCH APPROVAL OR DENIAL SHALL BE DEEMED A FINAL APPEALABLE DEPARTMENTAL DETERMINATION.
16. ANY PERSON AGGRIEVED OF A DECISION OF THE DEPARTMENT DIRECTOR TO APPROVE OR DENY OR SUSPEND OR REVOKE A FINAL FOREST CONSERVATION PLAN MAY APPEAL THE DECISION TO THE BUILDING BOARD OF APPEALS. SUCH APPEAL SHALL BE NOTED TO, AND FILED WITH, THE DEPARTMENT WITHIN 30 CALENDAR DAYS AFTER THE DEPARTMENT'S

DECISION.

17. UPON THE FILING OF AN APPEAL, THE BUILDING BOARD OF APPEALS SHALL HOLD A PUBLIC HEARING AT WHICH THE APPLICANT, AGGRIEVED PERSONS, THE PUBLIC, AND REPRESENTATIVES FROM THE DEPARTMENT SHALL HAVE THE OPPORTUNITY TO PARTICIPATE.
18. ANY DECISION OF THE BUILDING BOARD OF APPEALS UPON AN APPEAL NOTED AND FILED PURSUANT TO THIS CHAPTER IS APPEALABLE TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

E. VIOLATIONS

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

17.13.045 - RETENTION.

- A. THE PRELIMINARY AND FINAL FOREST CONSERVATION PLAN SHALL GIVE PRIORITY CONSIDERATION TO THE RETENTION OF EXISTING FOREST COVER AND INDIVIDUAL SIGNIFICANT TREES AND MINIMIZE THE NEED FOR REFORESTATION AND TREE REPLACEMENT. EXISTING FOREST COVER AND INDIVIDUAL TREES SHALL BE RETAINED UNLESS THE APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THAT REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE PLAN CANNOT REASONABLY BE ALTERED.
- B. PRIORITY RETENTION AREAS. EXCEPT AS PROVIDED IN SECTION 17.13.045 C., THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE RETAINED, PROTECTED, AND LEFT IN AN UNDISTURBED CONDITION.
 1. TREES, SHRUBS, AND PLANTS LOCATED IN CERTAIN SENSITIVE AREAS, SUCH AS THE 100-YEAR FLOODPLAIN, STREAMS AND STREAM BUFFER AREAS, STEEP SLOPES AND THEIR BUFFERS, NON-TIDAL WETLANDS AND THEIR BUFFERS, AND CRITICAL HABITATS;
 2. CONTIGUOUS FORESTS;
 3. PRIORITY FORESTS AS DEFINED IN THE FOREST CONSERVATION TECHNICAL MANUAL;
 4. RARE, THREATENED, OR ENDANGERED SPECIES PURSUANT TO COMAR 08.19.03.01 ARTICLE VII 7.2C;
 5. TREES ASSOCIATED WITH AN HISTORIC SITE OR STRUCTURE;
 6. TREES DESIGNATED AS A CHAMPION TREE;
 7. CERTAIN SPECIMEN TREES GREATER THAN 24 INCHES DIAMETER AT BREAST HEIGHT, OR SIGNIFICANT TREES THAT ARE DEEMED RARE, OR OF EXCEPTIONAL QUALITY OR SIZE WITHIN THE CITY;
 8. FORESTED STREAM BUFFERS;
 9. NON-TIDAL WETLANDS AND THEIR BUFFERS;
 10. FORESTED PARK BUFFERS; AND
 11. HEALTHY FORESTS.
- C. WHERE A DEVELOPMENT SITE IS WITHOUT SUFFICIENT PRIORITY RETENTION AREA TO SATISFY THE FOREST RETENTION REQUIREMENTS, SUCH REQUIREMENTS SHALL BE SATISFIED THROUGH THE RETENTION OF NON-PRIORITY AREAS PROVIDED THAT:

1. PRIORITY AREAS ARE PROTECTED IN RETENTION AREAS;
2. A MINIMUM 5,000 SQUARE FOOT PROTECTION ZONE IS SPECIFIED;
3. ALL CRITICAL ROOT ZONE AREAS ARE INCLUDED IN THE PROTECTION AREA;
4. THE NON-PRIORITY AREAS PROVIDE ONE OR MORE OF THE FOLLOWING BENEFITS:
 - A. PROVIDES A VEGETATIVE BUFFER BETWEEN TWO DIFFERENT LAND USES;
 - B. FOSTERS WILDLIFE HABITAT;
 - C. IMPROVES WATER QUALITY;
 - D. REDUCES RUNOFF FROM EROSION;
 - E. REDUCES FLOODING;
 - F. PROTECTS STEEP SLOPES;
 - G. PROVIDES AREAS FOR RECREATION AND OUTDOOR EDUCATION ACTIVITIES.
5. THE APPLICANT SUFFICIENTLY DEMONSTRATES THAT CLEARING BELOW THE BREAK-EVEN POINT MEETS THE REQUIREMENTS OF SECTION 17.13.045 C. OF THIS CHAPTER.

D. PRIORITY TREES. THE APPLICANT SHALL PROVIDE WRITTEN JUSTIFICATION FOR REMOVAL OF ALL TREES PURSUANT TO SECTION 17.13.045 B. OF THIS CHAPTER TO THE CITY ENVIRONMENTALIST FOR HIS OR HER APPROVAL. THE APPLICANT'S WRITTEN JUSTIFICATION SHALL ADDRESS THE FOLLOWING INFORMATION:

1. HOW REMOVAL OF PRIORITY TREES IS REQUIRED TO ACCOMMODATE ONE OF THE FOLLOWING:
 - A. RIGHT-OF-WAY;
 - B. SITE ACCESS;
 - C. UTILITY CONNECTIONS;
 - D. OTHER CITY DEVELOPMENTAL STANDARDS; OR
 - E. SITE CONDITIONS AND BEST DESIGN PRACTICES.
2. WHY THE APPLICANT CANNOT ALTER THE DEVELOPMENT TO PRESERVE PRIORITY TREES. EXPENSE OR THE APPLICANT'S UNWILLINGNESS TO ALTER THE PREFERRED SITE DESIGN SHALL NOT BE CONSIDERED AS VALID REASONS FOR PROPOSING TO CLEAR PRIORITY TREES.
3. HOW THE APPLICANT HAS EXHAUSTED ALL APPROPRIATE TECHNIQUES FOR RETENTION.

17.13.050 - TREE REPLACEMENT, REFORESTATION AND AFFORESTATION.

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

B. IF INDIVIDUAL SIGNIFICANT TREES ARE REMOVED, WHETHER WITHIN THE FOREST OR OUTSIDE THE FOREST, THEN EACH REMOVED TREE SHALL 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. FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST 100 SQUARE FEET CLEARED ON THE TRACT AREA:
 - A. REFORESTATION SHALL BE AT THE RATE OF ONE-QUARTER OF THE FORESTED

AREA REMOVED ABOVE THE FOREST CONSERVATION THRESHOLD ESTABLISHED IN SECTION 17.13.050 C. OF THIS CHAPTER FOR THE ZONE IN WHICH THE TRACT IS LOCATED;

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

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

B. AFFORESTATION.

1. AFFORESTATION IS NOT REQUIRED FOR THOSE ACTIVITIES CONDUCTED:
 - A. ON AN EXISTING SINGLE RECORDED RESIDENTIAL LOT OF ANY SIZE, PROVIDED THAT THE LOT IS NOT SUBDIVIDED AND THE COVERED ACTIVITY DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF MORE THAN 20,000 SQUARE FEET OF FOREST; OR
 - B. ON A LINEAR PROJECT, PROVIDED THAT THE ACTIVITY DOES NOT RESULT IN FOREST CLEARING IN EXCESS OF 20,000 SQUARE FEET.
2. ON A TRACT WHERE FOREST COVER PRIOR TO DEVELOPMENT ACTIVITY IS LESS THAN THE PERCENTAGE OF COVERAGE ESTABLISHED IN SECTION 17.13.050 C. OF THIS CHAPTER AS THE AFFORESTATION LEVEL FOR THE ZONE IN WHICH THE TRACT IS LOCATED, THE FINAL FOREST CONSERVATION PLAN SHALL PROVIDE FOR THE AFFORESTATION OF THE TRACT TO THE APPLICABLE AFFORESTATION LEVEL.
3. FOREST CUT OR CLEARED BELOW THE REQUIRED AFFORESTATION LEVEL, IN ACCORDANCE WITH SECTION 17.13.050 C. OF THIS CHAPTER, SHALL BE REPLACED AT A RATE OF THREE TIMES THE AREA REMOVED THEN ADDED TO THE AMOUNT OF AFFORESTATION NECESSARY TO REACH THE MINIMUM REQUIRED AFFORESTATION LEVEL THAT SHALL BE DETERMINED BY THE AMOUNT OF FOREST THAT EXISTED BEFORE CUTTING OR CLEARING BEGAN.
4. THE FOREST CONSERVATION TECHNICAL MANUAL MAY PROVIDE FOR A CREDIT AGAINST THE AREA REQUIRED TO BE AFFORESTED FOR INDIVIDUAL SIGNIFICANT TREES RETAINED OUTSIDE OF THE FOREST RETENTION AREAS WHEN NOT LESS THAN 75% OF THE CRITICAL ROOT ZONE IS PRESERVED, AND FOR THE NUMBER OF STREET TREES PLANTED, ALTHOUGH NOT TO EXCEED 25% OF THE TOTAL AFFORESTATION REQUIREMENT.
5. THE FOREST CONSERVATION TECHNICAL MANUAL MAY PROVIDE FOR CALCULATION OF AFFORESTATION REQUIREMENTS BASED ON LESS THAN THE TRACT AREA WHEN 75% OR MORE OF A TRACT AREA HAS PREVIOUSLY BEEN DEVELOPED AND NO MORE THAN 25% OF THE TRACT AREA WILL BE DISTURBED.

C.

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

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

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

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

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

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

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

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

17.13.060 - PAYMENT IN LIEU OF TREE REPLACEMENT, REFORESTATION AND AFFORESTATION.

- A. THERE IS HEREBY AUTHORIZED A FOREST CONSERVATION FUND FOR PAYMENT IN LIEU OF TREE REPLACEMENT, REFORESTATION AND AFFORESTATION. THE DIRECTOR SHALL MAKE ALL DECISIONS AS TO WHETHER TO ACCESS THE FUND. THE FUND SHALL BE USED FOR TREE PLANTING ON CITY PROPERTY AND REMOVAL OF A DEAD OR EXISTING TREE AND THE WATERING OF A NEW TREE ON CITY PROPERTY. THE FUND MAY BE ACCESSED ALSO FOR TREE PLANTING ON PRIVATE PROPERTY WITHIN TWO FEET OF A CURB IF THE WRITTEN CONSENT OF A PROPERTY OWNER IS OBTAINED TO ALLOW A RIGHT OF ENTRY ON TO THE PRIVATE FOR PLANTING PURPOSES AND THE CONSENT CONTAINS AN AGREEMENT THAT THE PROPERTY OWNER OWNS THE TREE AND IS EXCLUSIVELY RESPONSIBLE FOR TREE MAINTENANCE AND REMOVAL OF THE TREE IF THE DIES OR IS DYING, AND THE COST THEREOF.
- B. THE CITY MAY USE FUNDS FROM THE FOREST CONSERVATION FUND FOR THOSE PURPOSES AUTHORIZED IN COMAR 08.19.02.02(I). THE CITY FOREST CONSERVATION FUND SHALL NOT BE USED TO PLANT OR MAINTAIN TREES ON SINGLE DWELLING UNIT RESIDENTIAL LOTS.
- C. IF AN APPLICANT PROVIDES WRITTEN JUSTIFICATION TO THE DEPARTMENT THAT TREE REPLACEMENT, REFORESTATION, OR AFFORESTATION CANNOT BE ACCOMPLISHED ON-SITE, AND THE APPLICANT OTHERWISE MEETS THE REQUIREMENTS PURSUANT TO SECTION 17.13.045 OF THIS CHAPTER, THE APPLICANT MAY CONTRIBUTE AN AMOUNT IN LIEU OF TREE REPLACEMENT, REFORESTATION OR AFFORESTATION TO THE CITY'S FOREST CONSERVATION FUND WITH THE CITY ENVIRONMENTALIST'S APPROVAL. THE APPLICANT'S WRITTEN JUSTIFICATION FOR PAYMENT IN LIEU OF TREE REPLACEMENT, REFORESTATION, AND AFFORESTATION SHALL ADDRESS THE FOLLOWING:
1. HOW PLANTING SPACE IS LIMITED TO ACCOMMODATE ONE OR MORE OF THE FOLLOWING:
 - A. RIGHT-OF-WAY DEDICATIONS;
 - B. SITE ACCESS;
 - C. UTILITY CONNECTIONS; OR
 - D. OTHER CITY DEVELOPMENT STANDARDS.
 2. WHY THE DEVELOPMENT CANNOT BE ALTERED TO PROVIDE ADEQUATE PLANTING SPACE. EXPENSE OR THE APPLICANT'S UNWILLINGNESS TO ALTER PREFERRED SITE DESIGN SHALL NOT BE SUFFICIENT JUSTIFICATION FOR NOT ALTERING THE DEVELOPMENT TO PROVIDE ADEQUATE PLANTING SPACE.
 3. WHY THE APPLICANT CANNOT ALTER THE DEVELOPMENT TO PROVIDE ADEQUATE PLANTING SPACE. EXPENSE OR THE APPLICANT'S UNWILLINGNESS TO ALTER THE PREFERRED SITE DESIGN SHALL NOT BE CONSIDERED AS VALID REASONS FOR NOT PROVIDING ADEQUATE PLANTING SPACE.
 4. HOW THE MINIMUM TREE COVER REQUIREMENT, AS DETERMINED BY THE AFFORESTATION THRESHOLD, IS BEING MET ON-SITE.

17.13.065 - PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK.

- A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES IN THE DEPARTMENT'S AND CITY ENVIRONMENTALIST'S SOLE DISCRETION THAT REQUIREMENTS FOR REFORESTATION OR AFFORESTATION ON-SITE OR OFF-SITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON MAY CONTRIBUTE CREDITS FROM A FOREST MITIGATION BANK. A CREDIT IS REQUIRED FOR EACH TENTH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.
- B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST MITIGATION BANK WITHIN 90

CALENDAR DAYS AFTER THE DEVELOPMENT PROJECT'S COMPLETION.

17.13.070 - ESTABLISHING FOREST MITIGATION BANKS.

- A. UPON APPROVAL FROM THE CITY ENVIRONMENTALIST, A PERSON MAY CREATE A FOREST MITIGATION BANK FROM WHICH AN APPLICANT MAY PURCHASE CREDITS TO MEET THE AFFORESTATION AND REFORESTATION REQUIREMENTS OF THIS CHAPTER.
- B. REQUIREMENTS FOR ESTABLISHING A FOREST MITIGATION BANK. THE OWNER AND/OR OPERATOR OF FOREST MITIGATION BANK SHALL:
1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH A FOREST MITIGATION BANK AGREEMENT;
 2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN PERPETUITY. THE DEPARTMENT AND THE MARYLAND DEPARTMENT OF NATURAL RESOURCES SHALL HAVE THE AUTHORITY TO ENFORCE THE EASEMENT, DEED RESTRICTIONS, OR COVENANTS;
 3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES WHICH ARE CONSISTENT WITH FOREST CONSERVATION SUCH AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST CONSERVATION AND MANAGEMENT PROGRAM PURSUANT TO TAX-PROPERTY ARTICLE, §8-211, OF THE ANNOTATED CODE OF MARYLAND, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN THAT A LICENSED FORESTER HAS PREPARED AND THE DEPARTMENT HAS APPROVED;
 4. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION UNLESS INAPPROPRIATE; AND
 5. PLANT TREES WHICH:
 - A. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO INTERMITTENT AND PERENNIAL STREAMS, AND COASTAL BAYS TO WIDTHS OF AT LEAST 50 FEET;
 - B. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS, WHICH, WHERE PRACTICAL, SHOULD BE A MINIMUM OF 300 FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT TO CONNECT EXISTING FORESTS WITHIN, OR ADJACENT TO, THE SITE;
 - C. ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL HABITATS WHERE APPROPRIATE;
 - D. ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;
 - E. STABILIZE SLOPES OF 25% OR GREATER;
 - F. STABILIZE SLOPES OF 15% OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;
 - G. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-WAY; AND
 - H. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE.
- C. A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL SUBMIT TO THE DEPARTMENT:
1. A COMPLETED APPLICATION ON A FORM THE DEPARTMENT HAS APPROVED AND THAT AN AUTHORIZED INDIVIDUAL MEETING THE REQUIREMENTS OF COMAR 08.19.04.02I HAS SIGNED.
 2. A FOREST MITIGATION BANK PLAN WHICH CONTAINS:
 - A. A VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;
 - B. A SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE CRITERIA IN COMAR 08.19.04.02;
 - C. A DETAILED AFFORESTATION OR REFORESTATION PLAN, WHICH SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF THE SITE AND SOIL PREPARATION

NEEDED, SPECIES, SIZE, AND SPACING TO BE UTILIZED, WHICH A LICENSED MARYLAND FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A HAS PREPARED;

D. A PROPOSED TWO-YEAR MAINTENANCE AGREEMENT THAT SETS FORTH HOW THE AREAS AFFORESTED OR REFORESTED WILL BE ENSURED PROTECTION AND SATISFACTORY ESTABLISHMENT, COMPLIANCE WITH COMAR 08.19.04.05C(4)(A), AND INCLUDE WATERING AND REINFORCEMENT PLANTING PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED STANDARDS; AND

E. DEMONSTRATED LEGALLY SUFFICIENT ACCESS TO THE FOREST MITIGATION BANK SITE THAT THE DEPARTMENT AND ITS ASSIGNEES CAN USE TO INSPECT THE FOREST MITIGATION BANK.

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

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

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

17.13.075 - RECOMMENDED TREE SPECIES

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

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

17.13.080 - FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION BONDING.

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

1. ASSURE THAT THE AFFORESTATION, REFORESTATION, AND THE ASSOCIATED MAINTENANCE AGREEMENT ARE CONDUCTED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED FOREST CONSERVATION PLAN;
2. BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST, AS THE DEPARTMENT HAS

- DETERMINED, OF AFFORESTATION AND REFORESTATION; AND
3. BE IN A FORM AND OF A CONTENT THE DEPARTMENT HAS APPROVED.
- B. AFTER ONE GROWING SEASON, THE PERSON REQUIRED TO FILE A BOND PURSUANT TO THIS CHAPTER MAY REQUEST REDUCTION OF THE AMOUNT OF THE BOND OR OTHER FINANCIAL SECURITY BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT WITH A JUSTIFICATION FOR REDUCING THE BOND OR OTHER FINANCIAL SECURITY AMOUNT, INCLUDING ESTIMATED OR ACTUAL COSTS TO ENSURE AFFORESTATION OR REFORESTATION REQUIREMENTS ARE MET.
- C. THE DEPARTMENT SHALL DETERMINE WHETHER A LESSER AMOUNT IS SUFFICIENT TO COVER THE COST OF AFFORESTATION OR REFORESTATION, TAKING TO ACCOUNT THE FOLLOWING:
1. THE NUMBER OF ACRES;
 2. THE PROPOSED METHOD OF AFFORESTATION OR REFORESTATION;
 3. THE COST OF PLANTING MATERIALS OR REPLACEMENT MATERIALS;
 4. THE COST OF MAINTENANCE OF THE AFFORESTATION OR REFORESTATION PROJECT;
AND
 5. ANY OTHER RELEVANT FACTORS THAT THE DEPARTMENT DEEMS ARE NECESSARY.
- D. IF, AFTER TWO GROWING SEASONS, THE PLANTINGS ASSOCIATED WITH THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE STANDARDS IN THE FOREST CONSERVATION TECHNICAL MANUAL, THE AMOUNT OF THE CASH BOND, LETTER OF CREDIT, SURETY BOND, OR OTHER SECURITY SHALL BE RETURNED OR RELEASED.
- E. A LOCAL FOREST CONSERVATION PROGRAM MAY INCORPORATE THE FINANCIAL SECURITY SET FORTH IN THIS CHAPTER OR IN COMAR 08.19.05.01B.

17.13.085 - STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES.

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

17.13.090 - VARIANCE PROCEDURES.

- A. A PERSON MAY REQUEST A VARIANCE FROM THE REQUIREMENTS OF THIS CHAPTER OR THE REQUIREMENTS OF THE NATURAL RESOURCES ARTICLE, §§5-1601---5-1612, IF THE PERSON DEMONSTRATES THAT SUCH ENFORCEMENT OF SUCH REQUIREMENTS WOULD RESULT IN UNWARRANTED HARDSHIP TO THE PERSON.
- B. AN APPLICANT FOR A VARIANCE SHALL:
 1. DESCRIBE HOW THE SPECIFIC CONDITIONS PARTICULAR TO THE PROPERTY WOULD CAUSE THE UNWARRANTED HARDSHIP;
 2. DEMONSTRATE HOW THE PURPOSE OF THE VARIANCE IS NOT BASED EXCLUSIVELY UPON THE DESIRE TO INCREASE FINANCIAL GAIN;
 3. DESCRIBE HOW THE VARIANCE IS THE MINIMUM VARIANCE NECESSARY TO AFFORD RELIEF;

4. EXPLAIN HOW ENFORCEMENT OF THIS CHAPTER WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN SIMILAR AREAS COMMONLY ENJOY;
 5. DESCRIBE HOW GRANTING A VARIANCE WOULD NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO OTHER APPLICANTS;
 6. STATE HOW THE VARIANCE REQUEST WOULD NOT BE BASED ON CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF THE APPLICANT'S ACTIONS;
 7. STATE HOW THE VARIANCE REQUEST DOES NOT ARISE FROM A CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NONCONFORMING, ON A NEIGHBORING PROPERTY; AND
 8. DEMONSTRATE HOW GRANTING A VARIANCE WOULD NOT ADVERSELY AFFECT WATER QUALITY.
- C. THE DEPARTMENT, WITH THE CONCURRENCE OF THE CITY ENVIRONMENTALIST SHALL MAKE FINDINGS THAT THE APPLICANT HAS MET ALL REQUIREMENTS BEFORE THE DEPARTMENT MAY GRANT A VARIANCE.
- D. THE DEPARTMENT SHALL GIVE NOTICE OF A VARIANCE REQUEST TO THE MARYLAND DEPARTMENT OF NATURAL RESOURCES WITHIN 15 DAYS OF RECEIPT OF AN APPLICANT'S REQUEST FOR A VARIANCE.
- E. ANY PERSON AGGRIEVED BY ANY DECISION OF THE DEPARTMENT MAY APPEAL THAT DECISION TO THE CIRCUIT COURT OF ANNE ARUNDEL COUNTY.
- F. THE MARYLAND DEPARTMENT OF NATURAL RESOURCES HAS THE RIGHT AND AUTHORITY TO INITIATE OR INTERVENE IN AN ADMINISTRATIVE, JUDICIAL, OR OTHER ORIGINAL PROCEEDING OR APPEAL IN THE STATE CONCERNING AN APPROVAL OF A VARIANCE PURSUANT TO THE NATURAL RESOURCES ARTICLE, §§5-1601--5-1612, OR THIS CHAPTER.

17.13.095 - ENFORCEMENT.

A. FEES.

1. THE DEPARTMENT IS AUTHORIZED TO ASSESS A PENALTY OF \$0.75 PER SQUARE FOOT OF THE AREA FOUND TO BE IN NONCOMPLIANCE TO A PERSON FOUND TO BE NOT IN COMPLIANCE WITH THIS CHAPTER, REGULATIONS ADOPTED PURSUANT TO THIS CHAPTER, THE FOREST CONSERVATION PLAN, OR THE ASSOCIATED TWO-YEAR MAINTENANCE AGREEMENT.
2. FEES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE AUTHORIZED FOREST CONSERVATION FUND AND THE DEPARTMENT MAY USE THE FEES FOR PURPOSES RELATED TO IMPLEMENTING THIS CHAPTER.
3. THE DEPARTMENT SHALL ASSESS OTHER FEES ASSOCIATED WITH THIS CHAPTER AS SET BY RESOLUTION OF THE CITY COUNCIL.

B. VIOLATION.

1. THE DEPARTMENT MAY SERVE A MUNICIPAL INFRACTION TO A PERSON WHO VIOLATES THIS CHAPTER OR A REGULATION OR ORDER ADOPTED OR ISSUED PURSUANT TO THIS CHAPTER. UPON A COURT'S FINDING THAT A VIOLATION HAS OCCURRED, OR UPON AN ACKNOWLEDGMENT OF THE PERSON THAT A VIOLATION HAS OCCURRED AS STATED IN A CITATION, OR UPON SUCH ACKNOWLEDGMENT PRIOR TO THE ISSUANCE OF A CITATION, THE PERSON SHALL ABATE THE VIOLATION WITHIN A TIME DETERMINED BY THE COURT OR DEPARTMENT, AS THE CASE MAY BE, AND SHALL BE SUBJECT TO A FINE AS SET BY RESOLUTION OF THE CITY COUNCIL.
2. EACH DAY A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE VIOLATION FOR

WHICH A SEPARATE CITATION MAY BE SERVED AND A SEPARATE FINE IMPOSED.

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

D. THE CITY MAY ADOPT THE ENFORCEMENT PROVISIONS PURSUANT TO COMAR 08.19.06.03.

THE CITY SHALL PROVIDE TO THE MARYLAND DEPARTMENT OF NATURAL RESOURCES A NOTICE OF AN ENFORCEMENT ACTION WITHIN 15 DAYS AFTER THE COMMENCEMENT OF AN ENFORCEMENT ACTION BY THE CITY.

17.13.100 - ANNUAL REPORT.

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

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

17.13.105 - MARYLAND DEPARTMENT OF NATURAL RESOURCES BIENNIAL REVIEW.

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

17.13.110 - REFERENCES TO THE ANNOTATED CODE OF MARYLAND.

THE REFERENCES IN THIS CHAPTER TO A SECTION OF THE ANNOTATED CODE OF MARYLAND SHALL MEAN THAT SECTION AS MAY BE AMENDED FROM TIME TO TIME.

CHAPTER 21.24 - PLANNED DEVELOPMENTS

21.24.090 PLANNED DEVELOPMENT REVIEW CRITERIA AND FINDINGS.

THE PLANNING COMMISSION SHALL PROVIDE WRITTEN FINDINGS FOR EVERY APPLICATION UNDER THIS TITLE. THE APPLICATION SHALL BE APPROVED ONLY IS A MAJORITY OF THE MEMBERS OF THE PLANNING COMMISSION EACH FIND THAT ALL OF THE NECESSARY REVIEW

CRITERIA HAVE BEEN MET:

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

AN APPLICATION FOR A PLANNED DEVELOPMENT SHALL NOT PROCEED TO THE PLANNING COMMISSION FOR A PUBLIC HEARING UNTIL THERE IS A FINAL ADJUDICATION BY THE DEPARTMENT OF NEIGHBORHOOD AND ENVIRONMENTAL PROGRAMS, THE BUILDING BOARD OF APPEALS, OR THE COURTS, AS THE CASE MAY BE, ON THE FINAL FOREST CONSERVATION PLAN. THE PLANNING COMMISSION SHALL ACCEPT THE FINAL ADJUDICATION AS CONCLUSIVE EVIDENCE THAT ALL CRITERIA SET FORTH IN CHAPTER 17.13 OF THE CITY CODE HAVE BEEN MET. THE PLANNING COMMISSION MAY ALLOW MINOR CHANGES TO THE FINAL FOREST CONSERVATION PLAN THAT IS SUBJECT TO A FINAL ADJUDICATION, IF BOTH THE DEPARTMENT AND THE APPLICANT CONSENT. THE PLANNING COMMISSION SHALL MAKE NO MAJOR CHANGES TO A FINAL FOREST CONSERVATION PLAN THAT IS SUBJECT TO A FINAL ADJUDICATION. IF AT ANY POINT IN THE APPLICATION PROCESS, WHETHER AT THE DEPARTMENT LEVEL OR AT THE PLANNING COMMISSION LEVEL, THE DEPARTMENT DETERMINES THAT AN APPLICANT IS REQUESTING MAJOR CHANGES TO A FINAL FOREST CONSERVATION PLAN THAT IS SUBJECT TO A FINAL ADJUDICATION, THE APPLICANT SHALL BE REQUIRED TO SUBMIT A NEW FOREST CONSERVATION PLAN TO THE DEPARTMENT AND BOTH THE APPLICANT AND THE DEPARTMENT SHALL COMPLY WITH ALL REQUIREMENTS OF THIS CHAPTER, REGARDING THE SUBMISSION, REVIEW AND APPROVAL OF A PRELIMINARY AND FINAL FOREST CONSERVATION PLAN.

21.24.120 - MODIFICATION OF APPROVED PLANS.

APPROVED PLANNED DEVELOPMENT PLANS MAY BE MODIFIED AS FOLLOWS:

- A. THE PLANNING AND ZONING DIRECTOR MAY AUTHORIZE MINOR ADJUSTMENTS IN AN APPROVED PLANNED DEVELOPMENT PLANS AS FOLLOWS:
 - 1. MINOR MODIFICATIONS. MINOR MODIFICATIONS OF THE SIZE AND LOCATION OF DRAINAGE WAYS, SEWERS, ROADWAYS, LANDSCAPE ELEMENTS OR OTHER SIMILAR FEATURES, IN LIGHT OF TECHNICAL OR ENGINEERING CONSIDERATIONS.
 - 2. MINOR MODIFICATIONS OF THE BULK OF STRUCTURES PROVIDED THAT THE MODIFIED DIMENSIONS COMPLY WITH ALL REQUIREMENTS OF THE APPLICABLE ZONING DISTRICT AND DO NOT ALLOW BUILDINGS CLOSER TO PROPERTY LINES OR OTHERWISE ADVERSELY AFFECT NEIGHBORING PROPERTIES OR THE DEVELOPMENT AUTHORIZED BY THE PLAN AS ORIGINALLY APPROVED.
 - 3. ANY REQUEST FOR MODIFICATION OF ANY CONDITION IMPOSED ON A PLANNED

- DEVELOPMENT, WHICH IS DEEMED BY THE PLANNING DIRECTOR TO BE A MINOR MODIFICATION.
- B. MODIFICATIONS TO ALLOW ACCESSORY USES AND STRUCTURES. THE PLANNING AND ZONING DIRECTOR MAY AUTHORIZE THE DEVELOPMENT OF ACCESSORY USES OR STRUCTURES AS A MINOR MODIFICATION TO AN APPROVED RESIDENTIAL PLANNED DEVELOPMENT PLAN AS FOLLOWS:
1. A PROPOSED ACCESSORY USE OR STRUCTURE MAY BE FOUND TO BE A MINOR MODIFICATION IF THE ACCESSORY USE OR STRUCTURE WILL NOT ADVERSELY AFFECT NEIGHBORING PROPERTIES OR THE DEVELOPMENT AUTHORIZED BY THE PLAN AS APPROVED AND IS COMPLIANCE WITH ALL OTHER APPLICABLE ZONING CODE PROVISIONS.
 2. PRIOR TO MAKING A DETERMINATION REGARDING WHETHER THE PROPOSED ACCESSORY USE OR STRUCTURE CONSTITUTES A MINOR MODIFICATION, THE PLANNING AND ZONING DIRECTOR SHALL REQUIRE NOTICE TO ABUTTING PROPERTY OWNERS, PURSUANT TO THE REQUIREMENTS OF SECTION 21.10.020
 3. THE PLANNING AND ZONING DIRECTOR SHALL PROVIDE WRITTEN NOTIFICATION, AT THE APPLICANT'S EXPENSE, TO THE APPLICANT AND ABUTTING PROPERTY OWNERS OF THE DIRECTOR'S DECISION TO ALLOW AN ACCESSORY USE OR STRUCTURE AS A MINOR MODIFICATION.
 4. AN APPEAL OF THE PLANNING AND ZONING DIRECTOR'S DECISION WITH RESPECT TO ANY MINOR MODIFICATION MAY BE MADE TO THE BOARD OF APPEALS IN ACCORDANCE WITH THE PROCEDURES OF CHAPTER 21.30
- C. MAJOR MODIFICATIONS. MODIFICATIONS TO ANY APPROVED PLANNED DEVELOPMENT PLAN THAT THE PLANNING AND ZONING DIRECTOR DEEMS TO BE A MAJOR MODIFICATION MAY BE APPROVED ONLY IN ACCORDANCE WITH THE PROCEDURES REQUIRED FOR ORIGINAL PLAN APPROVAL, SUBJECT TO WAIVERS OF PLAN SUBMISSION REQUIREMENTS BY THE PLANNING AND ZONING DIRECTOR.

21.24.130 - APPEALS.

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

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

EXPLANATION

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