



Legislation Text

File #: O-26-23, Version: 1

Forest Conservation Plan Appeals - For the purpose of closing a loophole in the Forest Conservation Plan provisions of the City Code concerning forest clearing; changing the Forest Conservation Plan appeals body from the Building Board of Appeals to the Board of Appeals; and generally related to the Maryland Forest Conservation Act and Planned Unit Development regulations.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 26-23

**Introduced by: Ald. Savidge
Co-sponsored by:**

Referred to

Planning Commission
Rules and City Government Committee
Environmental Commission

AN ORDINANCE concerning

Forest Conservation Plan Appeals

FOR the purpose of closing a loophole in the Forest Conservation Plan provisions of the City Code concerning forest clearing; changing the Forest Conservation Plan appeals body from the Building Board of Appeals to the Board of Appeals; and generally related to the Maryland Forest Conservation Act and Planned Unit Development regulations.

BY repealing and reenacting with amendments the following portions of the Code of the City of Annapolis,
2023 Edition
21.71.030
21.71.070

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:

**Title 21 - PLANNING AND ZONING
Division V - Regulations of General Applicability
Section 21.71.030 - Application.**

B. This chapter does not apply to:

1. Highway construction activities under Natural Resources Article, § 5-103, Annotated Code of Maryland;
2. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§ 8-1801--8-1817, Annotated Code of Maryland, including those areas into which critical area forest protection measures have been extended under Natural Resources Article, § 5-1602(c), Annotated Code of Maryland;
3. Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, that are completed:
 - i. Before July 1, 1991; or
 - ii. After July 1, 1991, on property which:
 - a. Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation, and
 - b. Is the subject of a declaration of intent as provided for in Subsection C. of this section, approved by the Department;
4. Agricultural activities not resulting in a change in land use category, including agricultural support building and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing forty thousand square feet or greater of forest within a one-year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Subsection C. of this section which includes:
 - i. A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five years from the date of the declaration; and
 - ii. A sketch of the property which shows the areas to be cleared;
5. The cutting or clearing of public utility rights-of-way licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, if:
 - i. Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, § 5-1603(f), Annotated Code of Maryland; and
 - ii. Cutting or clearing of the forest is conducted to minimize the loss of forest;
6. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utilities Article, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland;
7. Except for a public utility subject to Subsection B.5. of this section, routine maintenance or emergency repairs of a public utility right-of-way if:
 - i. The right-of-way existed before the effective date of this section; or
 - ii. The right-of-way's initial construction was approved before the effective date of this section;
8. A residential construction activity conducted on an existing single lot of record of any size at the time of application, or a linear project not otherwise exempted under this section, if the activity:

- i. Does not result in the cumulative cutting, clearing, or grading of more than twenty thousand square feet of forest;
 - ii. 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 under this section; and
 - iii. Is the subject of a declaration of intent filed with the department, as provided in Subsection C. of this section, stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing, or grading of forest;
9. Strip or deep mining of coal regulated under Environment Article, Title 15, Subtitle 5 or 6, Annotated Code of Maryland;
10. Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland;
11. An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity:
 - i. Does not result in cutting, clearing, or grading of more than twenty thousand square feet of forest; and
 - ii. Is the subject of a declaration of intent filed with the Department, as provided for in Subsection C. of this section, which states that a transfer of ownership may result in a loss of exemption;
12. A plan of subdivision or a grading or sediment control plan administratively approved before the effective date of this chapter and that is not subsequently overturned on appeal;
- ~~13. A planned development, prior to the effective date of this chapter, that has obtained final planned development approval in accordance with Section 21.24.070 and that is not subsequently overturned on appeal;~~
- ~~14~~13. 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:
 - i. The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
 - ii. Both the grantor and grantee file a declaration of intent, as provided for in Subsection C. of this section;
- ~~15~~14. Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, if the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure;
- ~~16~~15. A stream restoration project, as defined in Section 21.71.020 of this chapter, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least five years with the affected property owner or owners;
- ~~17~~16. A special exception application that is only a change of use that does not involve new development or redevelopment with associated land-disturbing activities.

Title 21 - PLANNING AND ZONING

Division V - Regulations of General Applicability
Section 21.71.070 - Forest conservation plan.

A. General Provisions.

1. A preliminary forest conservation plan cannot be appealed. A final forest conservation plan is appealable as part of the appeal of a final administrative decision, Planning Commission decision or Board of Appeals decision specified in Chapter 21.08. A stay pending appeal shall be imposed during the time allowed to file an appeal, and if an appeal has been filed, for sixty days thereafter.
2. With regard to (1) a plan of subdivision or a grading or sediment control plan that was administratively approved, or (2) a planned development that has obtained final planned development approval, prior to September 26, 2016, the disposition of which remain governed by former Section 17.09.025.B. of the city Code, any person aggrieved by a decision of the director to approve or disapprove the Forest Conservation Plan associated with such applications shall be entitled to note an appeal to the building board of appeals. Any party to the proceeding before the Building Board of Appeals aggrieved of the decision of the Building Board of Appeals shall be entitled to file a petition for judicial review of the decision of the Building Board of Appeals in the Circuit Court for Anne Arundel County.

a. With regard to:

- i. A plan of subdivision or a grading or sediment control plan that was administratively approved; or
- ii. Planned development that has obtained final planned development approval, prior to September 26, 2016, the disposition of which remains governed by former section 17.09.025.b. of the city code;

Any person aggrieved by a decision of the Director to approve or disapprove the forest conservation plan associated with such applications shall be entitled to note an appeal, and said project shall halt work on any forest clearing until the Board of Appeals settles the appeal.

- b. Any party to the proceeding before the Building Board of Appeals aggrieved of the decision of the Building Board shall be entitled to file a petition for judicial review of the decision of the Building Board in the Circuit Court for Anne Arundel County. The Department may require any forest clearing to be halted until the judicial review has been completed.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect upon passage.