

PROPOSED

AMENDED
October 21 and November 4, 2019

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2019, Legislative Day No. 35

Bill No. 68-19

Introduced by Mr. Pruski, Chairman
(by request of the County Executive)

and by Ms. Rodvien

By the County Council, September 3, 2019

Introduced and first read on September 3, 2019
Public Hearing set for and held on October 7, 2019
Bill AMENDED on October 21, 2019
Public Hearing on AMENDED bill set for and held on November 4, 2019
Public Hearing on SECOND AMENDED bill set for November 18, 2019
Bill Expires December 7, 2019

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development – Forest Conservation

2
3 FOR the purpose of modifying forest conservation provisions; grandfathering certain
4 applications and permits; establishing standards for granting modifications to forest
5 conservation requirements; requiring that comments on applications for modifications
6 be made within a certain time period; revising the exceptions to the requirements for
7 modifications to special priority retention areas; revising the requirements for forest
8 stand delineations and forest conservation plans; revising the forest conservation
9 thresholds applicable to reforestation; modifying reforestation ratios for clearing below
10 and above a threshold; revising fees and security related to forest conservation; making
11 this Ordinance contingent on a stringency review by the Maryland Department of
12 Natural Resources; and generally relating to subdivision and development.

13
14 BY renumbering § 17-1-101(16) through (96) to be § 17-1-101(17) through (100)
15 Anne Arundel County Code (2005, as amended)

16
17 ~~BY renumbering: §§ 17-2-108(f) to be 17-2-108(g); and 17-6-303(e) to be 17-6-303(d);~~

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter deleted from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.
Underlining indicates matter added to bill by amendment.
~~Strikeover~~ indicates matter removed from bill by amendment.
Asterisks *** indicate existing Code provisions in a list or chart that remain unchanged.

1 ~~and 17-6-306(e) to be 17-6-306(d)~~
2 ~~Anne Arundel County Code (2005, as amended)~~

3
4 BY repealing and reenacting, with amendments: §§ 17-1-101(3), (50), (57), and (63); 17-
5 2-101(b)(12) and (13); 17-2-108(a)(1) and (3) and (b); 17-6-301(a) and (b)(4), (7), (10),
6 and (11); 17-6-302(b)(5) and (c); 17-6-303(b) and (d); 17-6-305(a); 17-6-306; and 17-
7 11-101
8 Anne Arundel County Code (2005, as amended)

9
10 ~~BY repealing and reenacting, with amendments, and renumbering: §§ 17-6-303(d) to~~
11 ~~be 17-6-303(e); and 17-6-306(a) and (b) to be 17-6-306(b) and (c)~~
12 ~~Anne Arundel County Code (2005, as amended)~~

13
14 BY adding: §§ 17-1-101(16), (66), (78), and (93); 17-2-101(b)(14); 17-2-108(f); and 17-6-
15 301(b)(12); 17-6-303(e); and 17-6-306(a)
16 Anne Arundel County Code (2005, as amended)

17
18 SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland,
19 That §§ 17-2-108(f), and 17-6-303(e) and (d), and 17-6-306(e), respectively, of the Anne
20 Arundel County Code (2005, as amended) are hereby renumbered to be §§ 17-2-108(g),
21 and 17-6-303(d) and (e), and 17-6-306(d), respectively.

22
23 SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland,
24 That § 17-1-101(16) through (96), respectively, of the Anne Arundel County Code (2005,
25 as amended) is hereby renumbered to be § 17-1-101(17) through (100), respectively.

26
27 SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County
28 Code (2005, as amended) read as follows:

29
30 **ARTICLE 17. SUBDIVISION AND DEVELOPMENT**

31
32 **TITLE 1. DEFINITIONS**

33
34 **17-1-101. Definitions.**

35
36 Unless defined in this article, the Natural Resources Article of the State Code, or
37 COMAR, the definitions of words defined elsewhere in this Code apply in this article. The
38 following words have the meanings indicated:

39
40 (3) “Agricultural and resource **[[area]] AREAS**” **[[has the meaning stated in Natural**
41 Resources Article, § 5-1601, of the State Code]] MEANS AN UNDEVELOPED AREAS ZONED
42 FOR DENSITIES OF LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE ACRES.

43
44 (16) “COMMERCIAL OR INDUSTRIAL AREAS” MEANS MANUFACTURING
45 OPERATIONS, OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER SIMILAR USES AND
46 THEIR ASSOCIATED STORAGE AREAS, YARDS, AND PARKING AREAS.

47
48 **[[(50)]]** (51) “High density residential **[[use]] AREAS**” **[[for purposes of afforestation**
49 and reforestation means a use located in a zoning district with an allowed density of greater
50 than one dwelling unit per acre]] MEANS AREAS ZONED FOR DENSITIES GREATER THAN

1 ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED
 2 DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS, UTILITIES,
 3 AND WATER AND SEWER SERVICE.

4
 5 [(57)] (58) "Institutional development [[use]] AREAS" [[for purposes of
 6 afforestation and reforestation means a school, college or university, military installation,
 7 transportation facility, utility or sewer project, government office or facility, golf course,
 8 recreation area, park, or cemetery]] MEANS SCHOOLS, COLLEGES, UNIVERSITIES, MILITARY
 9 INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND SEWER PROJECTS,
 10 GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES, RECREATION AREAS, PARKS,
 11 AND CEMETERIES.

12
 13 [(63)] (64) "Medium density residential [[use]] AREAS" [[for purposes of
 14 afforestation and reforestation means a use located within a zoning district with an allowed
 15 density greater than one dwelling unit per five acres but no more than one dwelling unit
 16 per acre]] MEANS AREAS ZONED FOR DENSITIES GREATER THAN ONE DWELLING UNIT PER
 17 FIVE ACRES AND LESS THAN OR EQUAL TO ONE DWELLING UNIT PER ACRE, INCLUDING
 18 BOTH EXISTING AND PLANNED DEVELOPMENT AND EITHER ASSOCIATED
 19 INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND SEWER SERVICE.

20
 21 (66) "MIXED USE DEVELOPMENT AREAS" MEANS SINGLE, RELATIVELY HIGH
 22 DENSITY DEVELOPMENT PROJECTS, USUALLY COMMERCIAL IN NATURE, WHICH INCLUDE
 23 ONE OR MORE TYPES OF USES.

24
 25 (78) "PLANNED UNIT DEVELOPMENT AREAS" MEANS DEVELOPMENTS COMPRISING
 26 A COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN
 27 ACCORDANCE WITH AN INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE
 28 DESIGN APPROVED BY THE LOCAL JURISDICTION WITH AT LEAST 20% OF THE LAND
 29 PERMANENTLY DEDICATED TO OPEN SPACE.

30
 31 (93) TARGETED GROWTH AREA" MEANS AN AREA TARGETED FOR ECONOMIC
 32 GROWTH AND DEPICTED AS SUCH IN THE CURRENT ANNE ARUNDEL COUNTY GENERAL
 33 DEVELOPMENT PLAN.

34 35 TITLE 2. GENERAL PROVISIONS

36 37 17-2-101. Scope; applicability.

38
 39 (b) **Applicability to pending and future proceedings.** Subject to the grandfathering
 40 provisions of COMAR Title 27, this article applies to all pending and future proceedings
 41 and actions of any board, department, or agency empowered to decide applications under
 42 this Code, except that:

43
 44 (12) for property located in the core in the Parole Town Center Growth
 45 Management Area, an application for final approval of a sketch plan, a preliminary plan, a
 46 proposed record plat, or for recommendation of approval of an application for a building
 47 or grading permit in connection with a preliminary plan or site development plan, or for
 48 approval of a site development plan for development that does not require a permit, filed
 49 before December 6, 2018, shall be governed by § 17-5-201 as it existed prior to December
 50 6, 2018; [[and]]

51
 52 (13) an application for sketch plan approval, final plan approval, preliminary plan
 53 approval, or approval of a building or grading permit associated with a site development

1 plan filed before January 1, 2019 shall be governed by the provisions of § 17-6-110 as they
2 existed prior to April 14, 2019[[.]]; AND

3
4 ~~(14) AN APPLICATION FOR SKETCH PLAN APPROVAL, FINAL PLAN APPROVAL,~~
5 ~~PRELIMINARY PLAN APPROVAL, APPROVAL OF A BUILDING OR GRADING PERMIT~~
6 ~~ASSOCIATED WITH A SITE DEVELOPMENT PLAN APPROVED BEFORE THE EFFECTIVE DATE~~
7 ~~OF BILL NO. 68-19, AND ANY FUTURE REVISIONS TO ANY SUCH APPLICATION OR PERMIT~~
8 ~~THAT DO NOT CHANGE THE PROPOSED OR ACTUAL LIMIT OF DISTURBANCE SHALL BE~~
9 ~~GOVERNED BY THE PROVISIONS OF BILL NO. 68-19 AS THEY EXISTED PRIOR TO THE~~
10 ~~EFFECTIVE DATE OF BILL NO. 68-19.~~

11
12 (14) THE FOLLOWING SHALL BE GOVERNED BY THE LAW AS IT EXISTED PRIOR TO
13 THE EFFECTIVE DATE OF BILL NO. 68-19:

14
15 (I) AN APPLICATION FOR APPROVAL OF A SKETCH PLAN, FINAL PLAN, FINAL
16 INFRASTRUCTURE CONSTRUCTION PLAN, PRELIMINARY PLAN, OR SITE DEVELOPMENT
17 PLAN, AND ANY BUILDING OR GRADING PERMITS ASSOCIATED WITH THESE PLANS, FILED
18 ON OR BEFORE DECEMBER 15, 2019;

19
20 (II) APPLICATIONS FOR BUILDING AND GRADING PERMITS THAT ARE NOT
21 ASSOCIATED WITH A FINAL PLAN OR SITE DEVELOPMENT PLAN FILED ON OR BEFORE
22 DECEMBER 15, 2019;

23
24 (III) REVISIONS TO THE PLANS AND PERMITS REFERENCED IN SUBPARAGRAPHS
25 (I) AND (II) THAT DO NOT MATERIALLY ALTER THE PROPOSED OR ACTUAL LIMITS OF
26 DISTURBANCE; AND

27
28 (IV) AN APPLICATION FOR A SPECIAL EXCEPTION FILED ON OR BEFORE
29 DECEMBER 15, 2019.

30
31 **17-2-108. Modifications.**

32
33 (a) Generally. The Planning and Zoning Officer may approve an application for a
34 modification to any provision of this article other than § 17-2-107 or one contained in Titles
35 5, 8, or 9, except as allowed by §§ 17-5-203(b), 17-5-205(b), 17-8-201(b), 17-8-203(c), 17-
36 8-403, 17-8-601(b)(2), 17-8-601(c), 17-8-901, or 17-9-401, and to any applicable
37 regulations, manuals, or specifications, including the DPW Design Manual, upon making
38 specific findings, enumerated in writing, that the modification request satisfies each of the
39 following criteria:

40
41 (1) practical difficulties or unnecessary hardship will result from strict application
42 of this article OR, FOR A MODIFICATION RELATING TO FOREST CONSERVATION,
43 UNWARRANTED HARDSHIP WILL RESULT DUE TO SPECIAL FEATURES OF THE SITE OR
44 OTHER CIRCUMSTANCES;

45
46 ***

47
48 (3) the modification is not detrimental to the public health, safety, or welfare. [[or]]
49 IS NOT injurious to other properties, OR, IF THE MODIFICATION RELATES TO FOREST
50 CONSERVATION, DOES NOT ADVERSELY AFFECT WATER QUALITY;

51
52 ***

1 (b) Comments; decision. The Planning and Zoning Officer SHALL PROVIDE
 2 COMMENTS ON AN APPLICATION FOR A MODIFICATION NO LATER THAN 45 DAYS AFTER
 3 THE FILING OF THE APPLICATION BUT may not ~~[[consider a modification]]~~ ISSUE A
 4 DECISION ON THE APPLICATION until at least 15 days ~~[[has]]~~ HAVE elapsed from the date
 5 the verification referenced in subsection (a)(5) ~~[[has been]]~~ WAS submitted.

6
 7 ~~(F) Modification to forest conservation for special priority retention areas.~~

8
 9 ~~(1) THE PLANNING AND ZONING OFFICER MAY GRANT A MODIFICATION TO THE~~
 10 ~~FOREST CONSERVATION REQUIREMENTS FOR SPECIAL PRIORITY RETENTION AREAS~~
 11 ~~CONTAINED IN § 17-6-303(C) ONLY IF THE APPLICANT DEMONSTRATES THAT:~~

12
 13 ~~(I) ENFORCEMENT OF THE REQUIREMENTS FOR SPECIAL PRIORITY RETENTION~~
 14 ~~AREAS WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHERS IN~~
 15 ~~SIMILAR AREAS;~~

16
 17 ~~(II) THE GRANTING OF THE MODIFICATION WILL NOT CONFER ON THE~~
 18 ~~APPLICANT A SPECIAL PRIVILEGE THAT WOULD BE DENIED TO OTHER APPLICANTS;~~

19
 20 ~~(III) THE MODIFICATION REQUEST IS NOT BASED ON CONDITIONS OR~~
 21 ~~CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE APPLICANT;~~

22
 23 ~~(IV) THE MODIFICATION REQUEST DOES NOT ARISE FROM A CONDITION OF OR~~
 24 ~~PERMITTED OR NONCONFORMING USE ON A NEIGHBORING PROPERTY;~~

25
 26 ~~(V) THE GRANTING OF A MODIFICATION WILL NOT ADVERSELY AFFECT WATER~~
 27 ~~QUALITY; AND~~

28
 29 ~~(VI) BECAUSE OF THE SPECIAL FEATURES OF THE SITE OR OTHER~~
 30 ~~CIRCUMSTANCES, STRICT IMPLEMENTATION OF THIS PROVISION WOULD RESULT IN AN~~
 31 ~~UNWARRANTED HARDSHIP TO THE DEVELOPER AS THAT TERM IS DEFINED IN § 8-1808 OF~~
 32 ~~THE NATURAL RESOURCES ARTICLE OF THE STATE CODE.~~

33
 34 ~~(2) THE PLANNING AND ZONING OFFICER SHALL MAKE WRITTEN FINDINGS THAT~~
 35 ~~THE APPLICANT HAS MET THE REQUIREMENTS OF THIS SUBSECTION BEFORE THE OFFICER~~
 36 ~~MAY GRANT A MODIFICATION.~~

37
 38 ~~[[f]](G) **Conditions.** In granting a modification, the Planning and Zoning Officer may~~
 39 ~~require conditions to secure the objectives of the provision that has been modified.~~

40
 41 **TITLE 6. GENERAL DEVELOPMENT PROVISIONS**

42
 43 **17-6-301. Scope.**

44
 45 (a) **In general.** This subtitle applies to any public or private PRELIMINARY PLAN, SITE
 46 DEVELOPMENT PLAN, subdivision plan, or application for a grading or sediment control
 47 permit by any person, including a unit of State government and the County, on areas 40,000
 48 square feet or greater.

49
 50 (b) **Exceptions.** This subtitle does not apply to:

51
 52 (4) any agricultural activity ~~[[~~, as defined in the Natural Resources Article, § 5-
 53 1601, of the State Code,]] that does not result in a change in a land use category, INCLUDING

1 AGRICULTURAL SUPPORT BUILDINGS AND OTHER RELATED STRUCTURES BUILT USING
2 ACCEPTED BEST MANAGEMENT PRACTICES;

3
4 (7) ~~[[residential construction on a single lot of any size]]~~ DEVELOPMENT or a linear
5 project if:

6
7 (i) ~~[[the residential construction or linear project]]~~ IT does not result in the
8 CUMULATIVE cutting, clearing, or grading of more than 20,000 square feet of forest ON
9 CONTIGUOUS LOTS UNDER COMMON OWNERSHIP; and

10
11 (ii) ~~[[the residential construction or linear project will]]~~ IT DOES not result in
12 the cutting, clearing, or grading of any forest that is subject to the requirements of a
13 previous forest conservation plan prepared under this subtitle;

14
15 (10) a stream restoration project, as defined in the Natural Resources Article, § 5-
16 1601, of the State Code, provided the applicant has a binding agreement with the owner to
17 maintain the project for at least five years; ~~[[or]]~~

18
19 (11) maintenance or retrofitting of a stormwater management structure, including
20 clearing of vegetation or removal and trimming of trees, provided the maintenance or
21 retrofitting is within the original limits of disturbance for construction of the existing
22 structure or within any maintenance easement for access to the structure~~[[.]]~~; OR

23
24 (12) PREVIOUSLY DEVELOPED AREAS ~~PRIMARILY~~ COVERED BY IMPERVIOUS
25 SURFACE ~~AND LOCATED IN PRIORITY FUNDING AREAS AND LOCATED IN PRIORITY~~
26 ~~FUNDING AREAS~~ AT THE TIME OF ~~THE AN~~ APPLICATION FOR APPROVAL OF A SUBDIVISION
27 PLAN; OR A GRADING OR SEDIMENT CONTROL PERMIT APPROVAL.

28
29 **17-6-302. Forest stand delineation.**

30
31 (b) **Contents.** Except as otherwise provided in this section, a forest stand delineation
32 shall consist of a narrative and shall contain or be accompanied by all information required
33 by the Office of Planning and Zoning, including:

34
35 (5) information required by the State Forest Conservation Technical Manual AND
36 COMAR TITLE 08, SUBTITLE 19 FOR A FULL FOREST STAND DELINEATION.

37
38 (c) **Simplified forest stand delineation for sites other than linear projects.** The
39 Office of Planning and Zoning may approve a simplified forest stand delineation for sites
40 other than linear projects if:

41
42 ~~[[~~(1) (i) less than 40,000 square feet of forest cover is disturbed during any
43 construction activity; or

44
45 (ii) forest cover disturbance is required by the County for the widening or
46 improvement of existing County roads or utility extensions when, without the disturbance
47 required by the County, the development itself would otherwise be exempt from the forest
48 conservation provisions of this title;

1 (2) a forest conservation easement is entered into with the County to provide long-
2 term protection for the area; and.

3
4 (3) the application for approval of the simplified forest stand delineation contains
5 all information required by the Office of Planning and Zoning, including at least the
6 following:

7
8 (i) a topography map that delineates intermittent and perennial streams and
9 steep slopes;

10
11 (ii) soil mapping units and narrative that indicate soils with structural
12 limitations, hydric soils, or highly erodible soils;

13
14 (iii) the location of 100-year floodplains; and

15
16 (iv) a map verified by a field inspection that shows existing forest cover,
17 champion trees, and critical habitat areas.]]

18
19 (1) ~~(I) FOREST DOES NOT CURRENTLY EXIST ON THE SITE OR FOREST ON THE SITE~~
20 ~~WILL NOT BE CUT OR CLEARED FOR THE PROPOSED DEVELOPMENT NO FOREST COVER~~
21 ~~WILL BE DISTURBED DURING A CONSTRUCTION ACTIVITY;~~

22
23 (II) ALL FOREST ON THE SITE WILL BE PROTECTED UNDER A LONG-TERM
24 PROTECTIVE AGREEMENT BETWEEN THE DEVELOPER AND THE COUNTY; AND

25
26 (2) A FOREST STAND DELINEATION MAP, MEETING THE REQUIREMENTS OF COMAR
27 08.19.04.02 FOR A SIMPLIFIED FOREST STAND DELINEATION MAP, IS INCLUDED IN AND
28 APPROVED AS PART OF THE APPLICATION.

29
30 **17-6-303. Forest conservation plan.**

31
32 (b) **Priority retention areas.** The following vegetation and areas are considered
33 priority retention areas and shall be left undisturbed unless the [[developer demonstrates
34 that reasonable efforts have been made to protect the vegetation and areas but the plan
35 cannot be reasonably altered]] PLANNING AND ZONING OFFICER APPROVES A
36 MODIFICATION DESCRIBED IN § 17-2-108;

37
38 (1) trees, shrubs, and plants located in sensitive areas, including the 100-year
39 floodplain, intermittent and perennial streams and their buffers, steep slopes, non-tidal
40 wetlands, AND ALL ASSOCIATED BUFFERS; ~~COUNTY DESIGNATED GREENWAYS;~~ and
41 critical [[habitats]] HABITAT AREAS, AS DEFINED IN § 5-1601 OF THE NATURAL RESOURCES
42 ARTICLE OF THE STATE CODE;

43
44 (2) contiguous forest that connects the largest undeveloped or most vegetated tracts
45 of land within and adjacent to the site; ~~AND~~

46
47 ~~[(3) trees, shrubs, or plants determined to be rare, threatened, or endangered under~~
48 ~~the Federal Endangered Species Act of 1973 set forth in 16 U.S.C. §§ 1531 – 1544 and in~~
49 ~~50 CFR Part 17; the Maryland Nongame and Endangered Species Conservation Act set~~
50 ~~forth in the Natural Resources Article, §§ 10-2A-01 et seq., of the State Code, and~~
51 ~~COMAR, Title 08;~~

1 (4) trees that are champion trees, part of a historic site, or associated with a historic
2 structure;

3
4 (5) a tree ~~IN FAIR OR BETTER CONDITION~~ that has a diameter measured at 4.5 feet
5 above the ground of 30 inches or more or that is 75% or more of the diameter of the current
6 State champion tree of that species; ~~[[and]]~~

7
8 (6) forested areas at least 35 feet wide with a total area of 10,000 square feet~~[[.]]~~;
9 AND

10 (7) HABITATS OR POTENTIAL HABITATS FOR FOREST INTERIOR DWELLING BIRDS
11 AND OTHER WILDLIFE SPECIES THAT CONSIST OF:

12
13 (I) A MINIMUM OF 75 ACRES OF CONTIGUOUS FOREST WITH 10 OR MORE ACRES
14 OF CONTIGUOUS FOREST LOCATED MORE THAN 300 FEET FROM THE NEAREST FOREST
15 EDGE; OR

16
17 (II) A MINIMUM OF 75 ACRES OF CONTIGUOUS RIPARIAN FORESTS ALONG A
18 PERENNIAL STREAM WITH AN AVERAGE WIDTH OF AT LEAST 300 FEET.

19
20 (3) FOREST INTERIOR DWELLING SPECIES (“FIDS”) HABITAT, MEANING WOODLAND
21 AREAS OF SUFFICIENT SIZE AS TO BE FAVORABLE TO THE BREEDING OF FIDS, THAT MEETS
22 ONE OF THE FOLLOWING CONDITIONS:

23
24 (I) ~~A MINIMUM OF 50 ACRES IN SIZE AND CONTAINS AT LEAST 10 ACRES OF~~
25 ~~FOREST LOCATED MORE THAN 300 FEET FROM THE NEAREST FOREST EDGE; OR~~

26
27 (II) ~~RIPARIAN FORESTS AT LEAST 50 ACRES IN SIZE WITH A MINIMUM AVERAGE~~
28 ~~WIDTH OF 300 FEET WITHIN THE WATERSHED OF A REGULATED STREAM.~~

29
30 (3) ~~(7) HABITATS FOR FOREST INTERIOR DWELLING BIRDS AND OTHER SPECIES~~
31 ~~THAT CONSIST OF:~~

32
33 (I) ~~FOREST AREAS OF AT LEAST 100 ACRES THAT ARE DOCUMENTED BREEDING~~
34 ~~AREAS AND FOREST CONNECTED WITH THESE AREAS; OR~~

35
36 (II) ~~RIPARIAN FORESTS AT LEAST 300 FEET IN WIDTH THAT ARE DOCUMENTED~~
37 ~~BREEDING AREAS AND ADJACENT TO WETLANDS OR REGULATED STREAMS.~~

38
39 (C) ~~Special priority retention areas. THE FOLLOWING VEGETATION AND AREAS ARE~~
40 ~~CONSIDERED SPECIAL PRIORITY RETENTION AREAS, AND SHALL BE LEFT UNDISTURBED~~
41 ~~UNLESS THE DEVELOPER IS GRANTED A MODIFICATION UNDER 17-2-108(F) PURSUANT TO~~
42 ~~§ 17-2-108:~~

43
44 (1) ~~TREES, SHRUBS, OR PLANTS DETERMINED TO BE RARE, THREATENED, OR~~
45 ~~ENDANGERED UNDER THE FEDERAL ENDANGERED SPECIES ACT OF 1973, AS SET FORTH IN~~
46 ~~16 U.S.C. §§ 1531 THROUGH 1544 AND IN 50 C.F.R. PART 17; AND THE MARYLAND NONGAME~~
47 ~~AND ENDANGERED SPECIES CONSERVATION ACT, AS SET FORTH IN §§ 10-2A-01, ET SEQ. OF~~
48 ~~THE NATURAL RESOURCES ARTICLE OF THE STATE CODE AND IN COMAR, TITLE 08,~~
49 ~~SUBTITLE 03, CHAPTER 08;~~

50
51 (2) ~~TREES THAT ARE PART OF A HISTORIC SITE OR ASSOCIATED WITH A HISTORIC~~
52 ~~STRUCTURE OR DESIGNATED BY THE MARYLAND DEPARTMENT OF NATURAL RESOURCES~~
53 ~~OR THE COUNTY AS A NATIONAL, STATE, OR LOCAL CHAMPION TREE; AND~~
54

1 ~~(3) A TREE THAT HAS A DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND OF~~
2 ~~30 INCHES OR MORE OR THAT IS 75% OR MORE OF THE DIAMETER OF THE CURRENT STATE~~
3 ~~CHAMPION TREE OF THAT SPECIES.~~

4
5 ~~[(c)] (D) Contents of forest conservation plan.~~ A forest conservation plan shall
6 contain or be accompanied by all information required by the Office of Planning and
7 Zoning, including at least the following:—

8
9 ~~(1) an approved forest stand delineation;~~

10
11 ~~(2) a table that lists the proposed values, measured to the nearest one-tenth acre, of~~
12 ~~the site, including the area of required forest conservation and the onsite and offsite areas~~
13 ~~of forest conservation that the developer will provide, but excluding the 100-year~~
14 ~~floodplain and any previously developed areas covered by impervious surfaces that are~~
15 ~~located in a priority funding area;~~

16
17 ~~(3) a graphic scale drawing of the site that shows the forest conservation to be~~
18 ~~provided, areas where existing forest is to be retained, areas proposed for afforestation or~~
19 ~~reforestation and their relationship to priority areas, any offsite areas proposed for~~
20 ~~afforestation or reforestation to meet forest conservation requirements, the limits of~~
21 ~~disturbance to the site, and stockpile areas;—~~

22
23 ~~(4) an explanation of how the developer will give priority to the retention of existing~~
24 ~~forests;~~

25
26 ~~(5) an afforestation or reforestation plan, if applicable;~~

27
28 ~~(6) information required by the State Forest Conservation Technical Manual;~~

29
30 ~~(7) a timetable for the sequence to implement the forest conservation plan and a~~
31 ~~description of site and soil preparation, size and species of plants and trees, and spacing~~
32 ~~between trees and plants;~~

33
34 ~~(8) the locations and types of protective devices to be used during construction~~
35 ~~activities to protect trees and forests designated for conservation;—~~

36
37 ~~(9) a forestation agreement;~~

38
39 ~~(10) a forest conservation easement that provides protection for areas of retention,~~
40 ~~planting, replanting, afforestation, or reforestation and that limits the use of those areas to~~
41 ~~uses that are consistent with forest conservation, including passive recreational activities~~
42 ~~and forest management practices.~~

43
44 ~~[(d)] (E) Retention not feasible; afforestation and reforestation; payment to~~
45 ~~Forest Conservation Fund.~~

46
47 (1) If a developer proposes to MODIFY THE REQUIREMENTS OF § 17-6-303(B) OR TO
48 retain less of the existing forest than is required by the forest conservation thresholds
49 established in § 17-6-306, the developer shall apply TO THE PLANNING AND ZONING
50 OFFICER for a modification of the forest conservation requirements of this subtitle

1 PURSUANT TO § 17-2-108 [[and:

2
3 (i) demonstrate that there are no available methods or techniques to implement
4 forest retention at the forest conservation threshold;

5
6 (ii) demonstrate why priority forests and priority areas, as determined by an
7 evaluation of the forest stand delineation, cannot be retained; and

8
9 (iii) describe the areas where afforestation and reforestation will occur, with
10 preference given to replanting in a priority retention area]].

11
12 (2) If the [[Office]] PLANNING AND ZONING OFFICER [[determines that retention of
13 existing forest is not feasible]] APPROVES A MODIFICATION PURSUANT TO PARAGRAPH
14 ~~(E)~~(D)(1), the developer shall provide for afforestation in accordance with § 17-6-305 and
15 reforestation in accordance with § 17-6-306.

16
17 (3) If the Office of Planning and Zoning determines that neither afforestation nor
18 reforestation can reasonably be accomplished, the developer shall make a payment to the
19 County's Forest Conservation Fund as provided in Title 11 before the signing of the
20 proposed record plat for a development involving subdivision or upon the issuance of a
21 grading permit for a development not involving subdivision.

22
23 **17-6-305. Afforestation.**

24
25 (a) Amount required. The amount of afforestation required under this subtitle shall be
26 determined according to the amount of existing forest cover as provided in this section. For
27 purposes of this section, the term "site" excludes the 100-year floodplain. The amount
28 required is as follows:

29
30 (1) a site that has less than 20% existing forest cover shall be afforested up to at
31 least 20% of the site for agricultural and resource areas and medium density residential
32 [[uses]] AREAS; and

33
34 (2) a site that has less than 15% existing forest cover shall be afforested up to at
35 least 15% of the site for institutional development [[uses]] AREAS, high density residential
36 [[uses]] AREAS, mixed use DEVELOPMENT AREAS or planned unit development [[uses]]
37 AREAS, and commercial or industrial [[uses]] AREAS.

38
39 **17-6-306. Reforestation.**

40
41 ~~(A) Definitions. IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS~~
42 ~~INDICATED.~~

43
44 ~~(1) "AGRICULTURAL AND RESOURCE AREAS" MEANS UNDEVELOPED AREAS ZONED~~
45 ~~FOR DENSITIES OF LESS THAN OR EQUAL TO ONE DWELLING UNIT PER FIVE ACRES.~~

46
47 ~~(2) "COMMERCIAL OR INDUSTRIAL AREAS" MEANS MANUFACTURING OPERATIONS,~~
48 ~~OFFICE COMPLEXES, SHOPPING CENTERS, AND OTHER SIMILAR USES AND THEIR~~
49 ~~ASSOCIATED STORAGE AREAS, YARDS, AND PARKING AREAS.~~

50
51 ~~(3) "HIGH DENSITY RESIDENTIAL AREAS" MEANS AREAS ZONED FOR DENSITIES~~

1 ~~GREATER THAN ONE DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND~~
2 ~~PLANNED DEVELOPMENT AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS,~~
3 ~~UTILITIES, AND WATER AND SEWER SERVICE.~~

4
5 (4) ~~“INSTITUTIONAL DEVELOPMENT AREAS” MEANS SCHOOLS, COLLEGES,~~
6 ~~UNIVERSITIES, MILITARY INSTALLATIONS, TRANSPORTATION FACILITIES, UTILITY AND~~
7 ~~SEWER PROJECTS, GOVERNMENT OFFICES AND FACILITIES, GOLF COURSES, RECREATION~~
8 ~~AREAS, PARKS, AND CEMETERIES.~~

9
10 (5) ~~“MEDIUM DENSITY RESIDENTIAL AREAS” MEANS AREAS ZONED FOR DENSITIES~~
11 ~~GREATER THAN ONE DWELLING UNIT PER FIVE ACRES AND LESS THAN OR EQUAL TO ONE~~
12 ~~DWELLING UNIT PER ACRE, INCLUDING BOTH EXISTING AND PLANNED DEVELOPMENT~~
13 ~~AND THEIR ASSOCIATED INFRASTRUCTURE, SUCH AS ROADS, UTILITIES, AND WATER AND~~
14 ~~SEWER SERVICE.~~

15
16 (6) ~~“MIXED USE DEVELOPMENT AREAS” MEANS SINGLE, RELATIVELY HIGH~~
17 ~~DENSITY DEVELOPMENT PROJECTS, USUALLY COMMERCIAL IN NATURE, WHICH INCLUDE~~
18 ~~ONE OR MORE TYPES OF USES.~~

19
20 (7) ~~“PLANNED UNIT DEVELOPMENT AREAS” MEANS DEVELOPMENTS COMPRISING~~
21 ~~A COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN~~
22 ~~ACCORDANCE WITH AN INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE~~
23 ~~DESIGN APPROVED BY THE LOCAL JURISDICTION WITH AT LEAST 20% OF THE LAND~~
24 ~~PERMANENTLY DEDICATED TO OPEN SPACE.~~

25
26 ~~[(a)]~~ **Amount required.** The amount of reforestation required under this subtitle
27 shall be determined according to the amount of existing forest cover cleared in relation to
28 the forest conservation threshold for the site. For purposes of this section, the term “site”
29 ~~[[excludes the 100-year floodplain]]~~ MEANS ANY LOT OR PARCEL OF LAND, OR
30 COMBINATION OF LOTS OR PARCELS OF LAND, THAT ARE CONTIGUOUS AND BEING
31 DEVELOPED AS PART OF A COMMON SUBDIVISION OR PROJECT, BUT NOT INCLUDING ANY
32 AREA COMPRISING A 100-YEAR FLOODPLAIN.

33
34 ~~(1) The forest conservation thresholds FOR SITES THAT ARE FIVE ACRES OR LESS;~~
35 ~~FOR SITES INSIDE A TARGETED GROWTH AREA; AND FOR INSTITUTIONAL DEVELOPMENT~~
36 ~~USES~~ are AS SHOWN IN THE FOLLOWING CHART:

37

<u>LAND USE TYPE</u>	<u>SITES 5 ACRES OR LESS IN SIZE IN A TARGETED GROWTH AREA, INSIDE A PRIORITY FUNDING AREA, OR OUTSIDE A PRIORITY FUNDING AREA</u>	<u>SITES GREATER THAN 5 ACRES IN SIZE INSIDE A TARGETED GROWTH AREA</u>	<u>SITES GREATER THAN 5 ACRES IN SIZE INSIDE A PRIORITY FUNDING AREA</u>	<u>SITES GREATER THAN 5 ACRES IN SIZE OUTSIDE A PRIORITY FUNDING AREA</u>
<u>AGRICULTURAL AND RESOURCE AREAS</u>	<u>50% OF THE SITE</u>	<u>50% OF THE SITE</u>	<u>50% OF THE SITE</u>	<u>50% OF THE SITE</u>
<u>MEDIUM DENSITY</u>	<u>25% OF THE SITE</u>	<u>25% OF THE SITE</u>	<u>30% OF THE SITE</u>	<u>40% OF THE SITE</u>

<u>RESIDENTIAL AREAS</u>				
<u>INSTITUTIONAL DEVELOPMENT AREAS</u>	<u>20% OF THE SITE</u>	<u>20% OF THE SITE</u>	<u>20% OF THE SITE</u>	<u>20% OF THE SITE</u>
<u>HIGH DENSITY RESIDENTIAL AREAS</u>	<u>20% OF THE SITE</u>	<u>20% OF THE SITE</u>	<u>25% OF THE SITE</u>	<u>35% OF THE SITE</u>
<u>MIXED USE DEVELOPMENT AREAS OR PLANNED UNIT DEVELOPMENT AREAS</u>	<u>15% OF THE SITE</u>	<u>15% OF THE SITE</u>	<u>20% OF THE SITE</u>	<u>30% OF THE SITE</u>
<u>COMMERCIAL OR INDUSTRIAL AREAS</u>	<u>15% OF THE SITE</u>	<u>15% OF THE SITE</u>	<u>20% OF THE SITE</u>	<u>30% OF THE SITE</u>

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~~[(1)] (i) for agricultural and resource areas, 50% of the site;~~

~~[(2)] (ii) for medium density residential uses, 25% of the site;~~

~~[(3)] (iii) for institutional development uses, 20% of the site;~~

~~[(4)] (iv) for high density residential uses, 20% of the site;~~

~~[(5)] (v) for mixed use or planned unit development uses, 15% of the site; and~~

~~[(6)] (vi) for commercial or industrial uses, 15% of the site.]~~

LAND USE TYPE	SITE AREA	CONSERVATION THRESHOLD
AGRICULTURAL AND RESOURCE AREAS	LESS THAN 2 ACRES	50% OF THE SITE
	GREATER THAN OR EQUAL TO 2 ACRES BUT LESS THAN 25 ACRES	58% OF THE SITE
	GREATER THAN OR EQUAL TO 25 ACRES BUT LESS AN 50 ACRES	67% OF THE SITE

	50 ACRES OR MORE	75% OF THE SITE
MEDIUM DENSITY RESIDENTIAL AREAS	LESS THAN 2 ACRES	25% OF THE SITE
	GREATER THAN OR EQUAL TO 2 ACRES BUT LESS THAN 25 ACRES	40% OF THE SITE
	GREATER THAN OR EQUAL TO 25 ACRES BUT LESS THAN 50 ACRES	55% OF THE SITE
	50 ACRES OR MORE	70% OF THE SITE
INSTITUTIONAL DEVELOPMENT AREAS	ANY ACREAGE	20% OF THE SITE
HIGH DENSITY RESIDENTIAL AREAS	LESS THAN 2 ACRES	20% OF THE SITE
	GREATER THAN OR EQUAL TO 2 ACRES BUT LESS THAN 25 ACRES	35% OF THE SITE
	GREATER THAN OR EQUAL TO 25 ACRES BUT LESS THAN 50 ACRES	50% OF THE SITE
	50 ACRES OR MORE	65% OF THE SITE
MIXED USE DEVELOPMENT AREAS OR PLANNED UNIT DEVELOPMENT AREAS	LESS THAN 2 ACRES	15% OF THE SITE
	GREATER THAN OR EQUAL TO 2 ACRES BUT LESS THAN 25 ACRES	30% OF THE SITE
	GREATER THAN OR EQUAL TO 25 ACRES BUT LESS THAN 50 ACRES	45% OF THE SITE
	50 ACRES OR MORE	60% OF THE SITE
COMMERCIAL OR INDUSTRIAL AREAS	LESS THAN 2 ACRES	15% OF THE SITE
	GREATER THAN OR EQUAL TO 2 ACRES BUT LESS THAN 25 ACRES	30% OF THE SITE
	GREATER THAN OR EQUAL TO 25 ACRES BUT LESS THAN 50 ACRES	45% OF THE SITE
	50 ACRES OR MORE	60% OF THE SITE

1 (2) FOR ALL OTHER SITES, THE FOREST CONSERVATION THRESHOLDS ARE AS
 2 SHOWN IN THE FOLLOWING CHART:

3

<u>LAND USE TYPE</u>	<u>INSIDE A PRIORITY FUNDING AREA</u>	<u>OUTSIDE A PRIORITY FUNDING AREA</u>
<u>AGRICULTURAL AND RESOURCE AREAS</u>	<u>50% OF THE SITE</u>	<u>50% OF THE SITE</u>
<u>MEDIUM DENSITY RESIDENTIAL AREAS</u>	<u>30% OF THE SITE</u>	<u>40% OF THE SITE</u>
<u>HIGH DENSITY RESIDENTIAL AREAS</u>	<u>25% OF THE SITE</u>	<u>35% OF THE SITE</u>
<u>MIXED USE OR PLANNED UNIT DEVELOPMENT USES</u>	<u>20% OF THE SITE</u>	<u>30% OF THE SITE</u>
<u>COMMERCIAL OR INDUSTRIAL AREAS</u>	<u>20% OF THE SITE</u>	<u>30% OF THE SITE</u>

4

5 ~~[(b)]~~ ~~(c)~~ **Retention above the threshold.** If existing forest cover is cut or cleared and
 6 the remaining forest cover is above the forest conservation threshold, the site shall be
 7 reforested at a ratio of ~~[[one-fourth]]~~ ONE-HALF acre planted for each acre of forest cover
 8 cut or cleared except that each acre of the site remaining in forest cover above the forest
 9 conservation threshold shall be a credit against the amount of reforestation required.

10

11 ~~[(c)]~~ ~~(d)~~ **Retention below the threshold.** If existing forest cover is cut or cleared and
 12 remaining forest cover is below the forest conservation threshold, the site shall be
 13 reforested at a ratio of two acres planted for each acre of forest cover cut or cleared below
 14 the forest conservation threshold and ~~[[one-fourth]]~~ ONE-HALF acre planted for each
 15 remaining acre of forest cover cut or cleared above the forest conservation threshold.

16

17 **TITLE 11. FEES AND SECURITY**

18

19 **17-11-101. Fees and security.**

20

21 The following fees shall be paid and security given as provided in the following chart,
 22 except that fees paid on an application governed by the law as it existed prior to May 12,
 23 2005 shall be credited against the fees in the following chart if the application is withdrawn
 24 and a new application is filed under this article:

25

Category	Fee or Security
Clearing in violation of forest conservation law	[[\\$0.80]] \$3.00 \$4.50 per square foot
***	***
Fee for abandonment of forest conservation easement <u>IN AREAS THAT ARE 35 FEET WIDE OR LESS WITH A TOTAL</u>	[[\\$0.75]] \$3.00 [[\\$0.75]] \$1.25 per square foot of conservation easement abandoned

Category	Fee or Security
<u>AREA OF 10,000 SQUARE FEET OR LESS</u>	
<u>FEE FOR ABANDONMENT OF FOREST CONSERVATION EASEMENT IN AREAS THAT ARE MORE THAN 35 FEET WIDE WITH A TOTAL AREA OF MORE THAN 10,000 SQUARE FEET</u>	[\$1.25] \$1.50 PER SQUARE FOOT OF CONSERVATION EASEMENT ABANDONED
Fee-in-lieu of planting for land outside the critical area and inside a priority funding area	[\$0.40] \$2.50 \$1.00 \$1.25 per square foot or the amount provided in COMAR Title 08, Subtitle 19, Chapter 4, whichever is greater
Fee-in-lieu of planting for land outside the critical area and outside a priority funding area	[\$0.50] \$3.00 \$1.25 \$1.50 per square foot or 20% more than the fee-in-lieu for land inside a priority funding area, whichever is greater
Fee-in-lieu of planting for land inside the critical area	[\$1.50] \$3.00 \$2.00 per square foot of mitigation required
***	***
Fee-in-lieu of planting in the critical area buffer	[\$1.50] \$3.00 \$2.00 per square foot

1

Category	Fee or Security
Clearing in violation of forest conservation law	[\$0.80] \$3.00 per square foot
***	***
Fee for abandonment of forest conservation easement	[\$0.75] \$3.00 per square foot of conservation easement abandoned
Fee in lieu of planting for land outside the critical area and inside a priority funding area	[\$0.40] \$2.50 per square foot or the amount provided in COMAR Title 08, Subtitle 19, Chapter 4, whichever is greater
Fee in lieu of planting for land outside the critical area and outside a priority funding area	[\$0.50] \$3.00 per square foot or 20% more than the fee in lieu for land inside a priority funding area, whichever is greater
Fee in lieu of planting for land inside the critical area	[\$1.50] \$3.00 per square foot of mitigation required

Fee in lieu of planting in the critical area buffer	[\$1.50] \$3.00 per square foot

1 SECTION 3. *And be it further enacted*, That all references in this Ordinance to “the
2 effective date of Bill No. 68-19”, or words to that effect, shall, upon codification, be
3 replaced with the actual date on which this Ordinance takes effect under Section 307 of the
4 County Charter as certified by the Administrative Officer to the County Council.

5
6 SECTION 4. *And be it further enacted*, That this Ordinance shall take effect 45 days
7 from the date it becomes law; provided, however, that the provisions of this Ordinance are
8 subject to a stringency review by the Maryland Department of Natural Resources in
9 accordance with COMAR 08.09.02.04(D) and §§ 5-1601, et. seq. of the Natural
10 Resources Article of the State Code, and if this Ordinance is disapproved, in whole or in
11 part, because any portion of the Ordinance is less stringent than State law, the disapproved
12 portions shall be severable from this Ordinance and shall be null and void without the
13 necessity of further action by the County Council. Within five days after receiving any
14 notice of disapproval from the Maryland Department of Natural Resources, the Office of
15 Planning and Zoning shall forward a copy to the Administrative Officer to the County
16 Council.