



Bill No. 20-08

Concerning: Amending Chapter 1-21 of the County Code (Forest Resource Ordinance) to Increase Forest Conservation Efforts

Introduced: June 16, 2020

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Enacted: July 21, 2020

Effective: September 19, 2020

Expires: September 14, 2020

Frederick County Code, Chapter 1-21

Section(s) 5, 40, and 42

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Kai Hagen on behalf of County Executive Jan Gardner

**AN ACT** to: amend Chapter 1-21 of the Frederick County Code (Forest Resource Ordinance) to increase forest conservation efforts.

Executive: Jan H. Gardner

Date Received: August 13, 2020

Approved: \_\_\_\_\_

Date: 8/13/20

Vetoed: \_\_\_\_\_

Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter 1-20 Section(s) 5, 40, 41

Other: \_\_\_\_\_

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law.</i>
[Single boldface brackets]	<i>Deleted from existing law.</i>
***	<i>Existing law unaffected by bill.</i>

1 Bill No. 20-08

2 The County Council of Frederick County, Maryland, finds it necessary and appropriate to  
3 amend Chapter 1-21 of the Frederick County Code (Forest Resource Ordinance) to increase forest  
4 conservation efforts and to update certain definitions.

5 NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF  
6 FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby,  
7 amended as shown on the attached Exhibit 1.

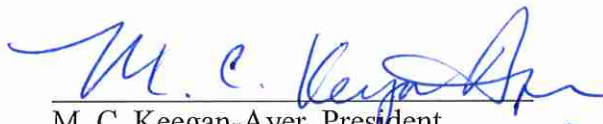
8 AND BE IT FURTHER ENACTED that the following transitional provisions shall apply:

9 (1) The amendments and revisions to Chapter 1-21 enacted by this Bill shall apply to:

10 (a) Any Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest  
11 Conservation Plan, or any combination thereof, and any exemption application, received by the  
12 Department for approval, reapproval, or extension on or after the effective date of this Bill.

13 (b) Any revised Forest Stand Delineation, Preliminary Forest Conservation Plan, Final  
14 Forest Conservation Plan, or any combination thereof, and any exemption application, received by  
15 the Department for approval, reapproval, or extension on or after the effective date of this Bill.

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M. C. Keegan-Ayer, President  
County Council of Frederick County, MD  
Maryland

**CHAPTER 1-21 FOREST RESOURCES**

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**§ 1-21-5. DEFINITIONS.**

***INTERMITTENT STREAM.*** [A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.] A stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from precipitation is a supplemental source of water for stream flow. These streams are identified through field verification and as approved by the Department. The most recent county hydrography layer may be used as a guide for the preliminary establishment of possible watercourses.

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***PERENNIAL STREAM.*** [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, as confirmed by field verification.] A stream that has flowing water year-round during a typical year. The water table is located above the streambed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from precipitation is a supplemental source of water for stream flow. These streams are identified through field verification and as approved by the department. The most recent county hydrography layer may be used as a guide for the preliminary establishment of possible watercourses.

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**§ 1-21-40. CONSERVATION AND FORESTATION PRIORITIES.**

(A) *In general.* In the implementation of any subdivision or development project, priority shall be given:

(1) First, to conservation of existing on-site forest areas according to the sequence listed in subsection (B) of this section;

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\*\*\*\*\* - indicates existing law unaffected by bill.

1 (2) Second, to forestation of on-site areas according to the sequence listed in subsection (C)  
2 of this section;

3 (3) Third, to forestation or mitigation off- site according to the sequence listed in subsection  
4 (D) of this section.

5 (B) *Priority areas for on-site conservation.*

6 (1) Trees, shrubs, and plants in priority areas shall be retained and protected and shall be left  
7 in an undisturbed condition. The applicant must demonstrate to the satisfaction of the Department  
8 that reasonable efforts have been made to protect them and that the plan cannot reasonably be  
9 altered. Priority areas include:

10 (a) Hydrologically-sensitive areas [, including the 100 year floodplain and all other  
11 floodplains listed in the Zoning Ordinance, § 1-19-9.100, as amended; streams and their buffers;  
12 steep slopes (25%) contiguous to or within 50 feet of hydrologically-sensitive areas; and wetlands];

13 (b) Forest segments that connect large forested or heavily vegetated tracts of land within or  
14 adjacent to the site;

15 (c) Areas that contain trees, shrubs, or plants identified as rare, threatened, or endangered  
16 under the Federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531-1544 and in 50 CFR 17,  
17 or under COMAR 08.03.08;

18 (d) Critical habitat areas for sedentary animal species; identified as threatened, endangered  
19 or in-need-of-conservation under the Maryland Nongame and Endangered Species Conservation  
20 Act, Md. Code Ann., Natural Resources Article, §§ 10-2A-01 through 10-2A-09.

21 (e) Nonhazardous trees that:

22 1. Are part of a historic site;

23 2. Are associated with a historic structure;

24 3. Have been designated by the state or the Department as a national, state, county, or  
25 municipal champion tree; and

26 4. Are specimen trees, or are 75 percent or more of the diameter, measured at 4.5 feet  
27 above the ground, of the current state champion tree of that species as designated by the  
28 Department of Natural Resources.

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1 (2) Any of the priority areas listed in subsection (B)(1) of this section that are not retained  
2 shall be deemed a modification requiring approval under § 1-21-21 of this chapter, unless the  
3 exception is authorized by § 1-19-9.110, as amended, of the Zoning Ordinance.

4 (3) The following trees or forested areas shall be retained and protected unless the applicant  
5 has demonstrated to the satisfaction of the Department that reasonable efforts have been made to  
6 protect them and the plan cannot reasonably be altered:

7 (a) Forest areas that buffer significantly noncompatible land uses, such as industrial and  
8 residential, as determined by the Department; and

9 (b) Other forested areas that because of their size, location, species composition, or quality  
10 are deemed by the Department as being worthy of conserving permanently.

11 (C) *Priority sequence for on-site forestation.* After every reasonable effort to minimize the  
12 cutting and clearing of trees and other woody plants in on-site priority areas listed in § 1-21-40(B)  
13 has been exhausted, the following areas shall be considered the priority sequence for on-site  
14 forestation:

15 (1) Buffers adjacent to intermittent and perennial streams to widths of at least 50 feet from  
16 stream banks;

17 (2) Areas in 100 year floodplains and all other floodplains listed in the Zoning Ordinance,  
18 § 1-19-9.100;

19 (3) Corridors to connect existing forests within or adjacent to the development site with a  
20 minimum width of 300 feet where practical to facilitate wildlife movement;

21 (4) Buffers adjacent to critical habitats where appropriate;

22 (5) Slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than  
23 0.35, including the slopes of ravines or other natural depressions;

24 (6) Areas identified as green infrastructure network and/or sensitive species areas in the green  
25 infrastructure sector of the Livable Frederick Master Plan;

26 ~~[(6)]~~ (7) Buffers between differing land uses that are deemed to be noncompatible by the  
27 Department or buffers adjacent to highways; and

28 ~~[(7)]~~ (8) Lands adjacent to existing forests to increase the overall area of contiguous forest  
29 cover, when appropriate.

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§ 1-21-42. REFORESTATION AND CONSERVATION THRESHOLD.

[Subsection 1-21-42(A) remains unchanged]

(B) Calculation of Requirements. There are two methods to calculate reforestation requirements. The method that results in the most reforestation shall be used.

(1) The first method shall require a 1:1 replacement. This means that for every one acre (or portion thereof) of forest removed, one acre must be planted.

(2) The second method, the “Standard Method”, is set forth in subsection 1-21-42(D).

(B)(C) Definitions restated. **REFORESTATION** under this section means the planting of trees to replace forest that has been recently or is proposed to be removed by development. **CONSERVATION THRESHOLD** means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one-quarter acre planted for every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed according to the land use categories as listed below:

<i>Category of Use</i>	<i>Threshold Percentage</i>
(1) Agricultural and Resource Conservation Zones, except for cluster developments therein which shall utilize R-1 values	50
(2) R-1 Residential zoned areas	25
(3) Institutional use areas in any zone	20
(4) R-3, R-5, R-8, R-12, R-16 and Mobile Home Park zoned areas	20
(5) Mixed Use and Planned Unit Development zoned areas	15
(6) Commercial and Industrial Use zoned areas	15

Required reforestation under the Standard Method shall be calculated according to the formulas provided in subsection (C)(D) of this section.

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(~~C~~) Standard Method Calculations.

(1) For all existing forest cover cleared on the net tract area above the applicable conservation threshold established by subsection (~~A~~) of this section, the area of forest removed shall be reforested at a ratio of one quarter acre planted for every acre removed.

(2) For all existing forest cover cleared on the net tract area below the applicable conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre removed.

(3) For each acre of forest retained on the net tract area above the applicable conservation threshold, credit shall be given against the total number of acres required to be reforested under subsection (~~C~~)(1) of this section.

(~~D~~) Accuracy Standards. All calculations of reforestation requirements shall be calculated to the nearest one-hundredth acre and shall be in accordance with the worksheet provided in the Technical Manual and approved by the Department. However, forest field measurements may be measured to the nearest one-tenth acre.

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