

Article II

Forest and Tree Conservation Definitions

§31– 2 Definitions

In this Ordinance the following terms have the meanings indicated.

"Afforestation" means:

- A. Establishment of a forest on an area from which forest cover has been absent for a long period of time;
or

"Agriculture" means the planting of open areas which are not presently in forest cover and includes all methods of production and management of livestock, crops, vegetation and soil.

- A. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting and marketing. It also includes, but is not limited to, the activities of feeding, housing and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses and poultry and handling their by-products.

"Agricultural activity" means farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery and other products cultivated as part of a recognized commercial enterprise.

"Agricultural and resource areas" means undeveloped areas zoned for densities of less than or equal to one dwelling unit per 5 acres. There is no current zoning classification which corresponds to this definition.

"Applicant" means a person who is applying for subdivision, project plan approval or for a grading and or sediment and erosion control permit or who has received approval of a Forest Stand Delineation or Forest Conservation Plan.

"Approved forest management plan" means a document:

- A. Approved by the Department of Natural Resources forester assigned to the Town of Easton in Talbot County; and
- B. Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, §§5-1607(e)—(f), Annotated Code of Maryland.

"Caliper" means the diameter measured at 2 inches above the root collar.

"Canopy tree" means a tree that when mature commonly reaches a height of at least 24 feet.

"Champion tree" means the largest tree of its species within the United States, the State of Maryland, Talbot County, or the Town of Easton.

"Commercial and industrial uses" means manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding and parking areas, and corresponds to the following Classifications within the Town of Easton's Zoning code: Central Business (CR), General Commercial (CG), Select Industrial (I-1) and General Industrial (I-2).

"Commercial logging or timber harvesting operations" means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.

"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 to be occupied by the species for the foreseeable future; and
- C. Constitute habitat of the species which is considered critical under Natural Resources Article, §§4-2A-04 and 10-2A-06, Annotated Code of Maryland.

"Critical habitat for endangered species" means a habitat occupied by an endangered species as determined or listed under Natural Resources Article, §§4-2A-04 and 10-2A-04, Annotated Code of Maryland.

"Declaration of intent" means:

- A. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - (1) Is for certain activities exempted under this Ordinance or Natural Resources Article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland,
 - (2) Does not circumvent the requirements of this Ordinance or Natural Resources Article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland, and
 - (3) Does not conflict with the purposes of any other declaration of intent; or
- B. The document required under COMAR 08.19.01.05 or this Ordinance.

"Department" means the Department charged with implementing the local forest conservation program. The Town of Easton Department of Planning and Zoning is charged with the implementing the local forest conservation program.

"Development" means any activity, other than normal agricultural activities, which materially affects the existing condition or use of any land, or any structure.

"Development project" means the subdivision, grading, sediment and erosion control or construction project activities occurring on a specific tract that is 40,000 square feet or greater.

- A. "Development project" includes redevelopment.

"Development project completion" means for the purposes of afforestation, reforestation, or payment into a fund:

- A. The release of the development bond, if required;
- B. Acceptance of the project's streets, utilities, and public services by the Department; or
- C. Designation by the Department or State that a:
 - (1) Development project has been completed, or

- (2) Particular stage of a staged development project, including a planned unit development, has been completed.

"Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

B. "Forest" includes:

- (1) Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and
- (2) Areas that have been cut but not cleared.

C. "Forest" does not include orchards.

"Forest Conservancy District Board" means the forestry board created for each State forest conservancy district under Natural Resources Article, §§5-601—5-610, Annotated Code of Maryland.

"Forest conservation" means the retention of existing forest or the creation of new forest at the levels set by the State or Department.

"Forest Conservation Account" means an account established by the Town of Easton for the retention of payments made in lieu of afforestation or reforestation.

"Forest Conservation and Management Agreement" means an agreement as stated in Tax-Property Article, §8-211, Annotated Code of Maryland.

"Forest Conservation Technical Manual" means the State of Maryland Department of Natural Resources Technical Manual incorporated by reference, used to establish standards of performance required in preparing Forest Stand Delineations and Forest Conservation Plans.

"Forest Conservation Plan" means a plan approved pursuant to Natural Resources Article, §§5-1606 and 5-1607, Annotated Code of Maryland.

"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 assessment of the resource values of forested property.

"Forest Stand Delineation" means the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the State of Maryland Department of Natural Resources Technical Manual.

"Growing season" means the period of consecutive frost-free days as stated in the current soil survey for Talbot County as published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (a)—(f).

"High density residential areas" means areas zoned for densities greater than 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities and water and sewer service and corresponds to the following Zoning Classifications in the Town of Easton Zoning code; Residential District R-7A, Residential District R-10A and Residential District R-10M.

"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 and corresponds to any use listed within the Institutional Uses classification of the Table of Permissible Uses of the Town of Easton Zoning Code.

"Intermittent stream" means 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.

"Landscaping plan" means a plan:

- A. 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. Using native or indigenous plants when appropriate; and
- C. Which is made 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 the Town of Easton government, including an office or department of public works.

"Lot" means a unit of land, the boundaries of which have been established by subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources Article, §5-1601, Annotated Code of Maryland, and this Ordinance 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 under Natural Resources Article, §5-1605, Annotated Code of Maryland, and this Ordinance.

"Medium density residential areas" means areas zoned for densities greater than 1 dwelling unit per 5 acres and less than or equal to 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities and water and sewer service, and corresponds to the Zoning Classification Agricultural District A-1.

"Minor development project" means a project:

- A. On less than 5 acres of land containing not more than four lots per acre; or
- B. Substantively similar as defined by the Department and approved by the State.

"Mixed use development" means a single, relatively high-density development project, usually commercial in nature, which includes two or more types of uses and has no current corresponding zoning districts within the Town of Easton.

"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.

"Net tract area" means:

- A. Except in agriculture and resource areas, the total area of a site, including both forested and non-forested areas, to the nearest 1/10 acre, reduced by that area found to be within the boundaries of the 100-year floodplain; and
- 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 found to be within the boundaries of the 100-year floodplain; and
- C. For a linear project:
 - (1) The area of a right-of-way width, new access roads, and storage; or
 - (2) The limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

"Non-tidal wetlands" means an area that is:

- (1) Inundated or saturated by surface or groundwater 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; and
 - (2) Considered a non-tidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.
- A. "Non-tidal wetlands" does not include tidal wetlands regulated under Natural Resources Article, Title 9, of the Annotated Code of Maryland.

"Offsite" means outside of the limits of the area encompassed by the tract including the areas classified as a one hundred (100) year floodplain.

"Onsite" means within the limits of the area encompassed by the tract including the areas classified as a one hundred (100) year floodplain.

"100-year flood" means a flood which has a 1 percent chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with 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, as confirmed by field verification.

"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, contractor, 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 unit development" means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the Town of Easton with at least 20 percent of the land permanently dedicated to open space and corresponds to the following Zoning Classifications in the Easton Zoning code: PUD, C-M, and any project developed in accordance with the provisions of the PR Overlay District.

"Priority funding area" means an area designated as a priority funding area under State Finance and Procurement Article, §5-7b-02, Annotated Code of Maryland.

"Project plan" means a construction, grading, or sediment and erosion control activity on an area of 40,000 square feet or greater by a local agency.

"Public utility" means any:

- A. Transmission line or electric generating station; or
- B. Water, sewer, electric, gas, telephone, television cable service line, communications including access to the internet.

"Reforestation" or **"reforested"** means the:

- (1) Creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre with at least 50 percent of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years; or
 - (2) Establishment of a forest according to procedures set forth in State of Maryland Department of Natural Resource's Forest Conservation Technical Manual.
- A. "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.
 - B. "Reforestation" for a linear project involving overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

"Regulated activity" means any of the following activities, when that activity occurs on a unit of land which is 40,000 square feet or greater:

- A. Subdivision;
- B. Grading;
- C. An activity that requires a sediment and erosion control permit; or
- D. Project plan of the Town of Easton.

"Retention" means the deliberate holding and protecting of existing trees, shrubs, or plants on the site according to established standards as provided in State of Maryland Department of Natural Resource's Forest Conservation Technical Manual.

"Sediment and erosion control permit" means the authorization of an activity regulated under a sediment and erosion control plan as provided in Environment Article, Title 4, Annotated Code of Maryland.

"Seedling" means an unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at 2 inches above the root collar.

"Selective clearing" means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved Forest Conservation Plan.

"Sketch Plan " means the initial point in the development review process when the applicant prepares and submits a sketch plan in accordance with the definitions and standards of the Town of Easton's Zoning Ordinance or Subdivision Regulations.

"Stream buffer" means all lands lying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream.

"Stream restoration project" means an activity that:

- A. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway or floodplain;
- B. Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;
- C. Maybe performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and
- D. Is not performed to satisfy storm water management, wetlands mitigation or any other regulatory requirement associated with proposed development activity.

"Subdivision" means any division of a unit of land into 2 or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease or development.

"Timber harvesting" means a tree-cutting operation affecting 1 or more acres of forest or developed woodland within a 1-year interval that disturbs 5,000 square feet or more of forest floor.

- A. "Timber harvesting" does not include grubbing and clearing of root mass.

"Tract" means property or unit of land subject to an application for a grading or sediment and erosion control permit, subdivision approval, project plan approval, or areas subject to this Ordinance.

"Tract for a planned unit development" means the entire property subject to a planned unit 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" means relief from Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland, or this Ordinance.

- A. "Variance" does not mean a zoning variance.

"Watershed" means all land lying within an area described as a sub-basin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.

"Whip" means an unbranched woody plant greater than 24 inches in height and having a diameter of less than 1 inch measured at 2 inches above the root collar.