

Article VI

Forest Conservation Plan

§31-6.1 General Provisions

- A. In developing a Forest Conservation Plan, the applicant shall give priority to techniques for retaining existing forest on the site.
- B. If existing forest on the site subject to a Forest Conservation Plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Department:
- (1) How techniques for forest retention have been exhausted;
 - (2) Why the priority forests and priority areas specified in Natural Resources Article, §5-1604(c) (1), Annotated Code of Maryland, cannot be left in an undisturbed condition;
 - (3) If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland;
 - (4) Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; and
 - (5) How the disturbance to the priority forests and priority areas specified in Natural Resources Article, §5-1607(c) (2), Annotated Code of Maryland, qualifies for a variance.
- C. If the applicant proposes to make a payment into the local Forest Conservation Account instead of providing afforestation or reforestation, the applicant shall demonstrate to the satisfaction of the Department that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished.
- D. Non-tidal Wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as non-tidal wetlands under Environment Article, Title 9, Annotated Code of Maryland, is subject to both the non-tidal wetlands regulatory requirements and the requirements of this Ordinance, subject to the following:
- (1) Any area of forest in the net tract area, including forest in non-tidal wetlands that is retained, shall be counted towards forest conservation requirements under this law;
 - (2) For the purpose of calculating reforestation mitigation under this Ordinance, a forested non-tidal wetland permitted to be cut or cleared and required to be mitigated under Environment Article, Title 9, Annotated Code of Maryland, shall be shown on the Forest Conservation Plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity;
 - (3) Non-tidal wetlands shall be considered to be priority areas for retention and replacement;
 - (4) Forested non-tidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the non-tidal wetlands and to avoid delay in the approval process.

§31–6.2 Preliminary Forest Conservation Plan

A. A preliminary Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.

B. A preliminary Forest Conservation Plan shall:

- (1) Be submitted with the preliminary plan of subdivision or proposed project plan;
- (2) Include the approved Forest Stand Delineation for the site;
- (3) Include a table that lists the proposed values of the following, in square feet:
 - (a) Net tract area,
 - (b) Area of forest conservation required, and
 - (c) Area of forest conservation that the applicant proposes to provide, including both onsite and offsite areas;
- (4) Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
- (5) Include an explanation of how the provisions of §31-6.1 of this article have been met;
- (6) In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
- (7) Include a proposed construction timetable showing the sequence of forest conservation procedures;
- (8) Show the proposed limits of disturbance;
- (9) Show proposed stockpile areas;
- (10) Incorporate a proposed 2-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
- (11) Information required by the Forest Conservation Technical Manual; and
- (12) Other information the Department determines is necessary to implement this Ordinance.

C. The review of the preliminary Forest Conservation Plan shall be concurrent with the review of the preliminary subdivision or site plan.

D. During the different stages of the review process, the preliminary Forest Conservation Plan may be modified provided the Department approves of the changes.

§31–6.3 The Final Forest Conservation Plan

A. A final Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.

B. A final Forest Conservation Plan shall:

- (1) Be submitted with the following:
 - (a) A final subdivision plan,
 - (b) A final project plan,
 - (c) An application for a grading permit and;
 - (d) An application for a sediment and erosion control permit;
- (2) Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
- (3) In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
- (4) Incorporate a binding 2-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
 - (a) Watering, and
 - (b) A reinforcement planting provision if survival rates fall below required standards, as provided in the State of Maryland Department of Natural Resource's Forest Conservation Technical Manual;
- (5) Incorporate a long-term binding protective agreement as specified in COMAR 08.19.05.02 that:
 - (a) Provides protection for areas of forest conservation, including areas of afforestation, reforestation, retention and
 - (b) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest(s);
- (6) Include the substantive elements required under §31-6.2B (2) — (5), (7) — (9) and (11) of this article, as finalized elements of the Forest Conservation Plan; and
- (7) Other information the Department determines is necessary to implement this Ordinance.

C. Time for Submittal.

- (1) Within 45 calendar days after receipt of the final Forest Conservation Plan, the Department shall notify the applicant whether the Forest Conservation Plan is complete and approved.

- (2) If the Department fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.
- (3) The Department may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.
- (4) At the request of the applicant, the Department may extend the deadline under extenuating circumstances.

D. The Department's review of a final Forest Conservation Plan shall be concurrent with the review of the final subdivision or project plan, grading permit application, or sediment and erosion control application associated with the project.

E. The Department may revoke an approved Forest Conservation Plan if it finds that:

- (1) A provision of the plan has been violated;
- (2) Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement or omission of relevant or material fact(s); or
- (3) Changes in the development or in the condition of the site necessitate preparation of a new or amended Plan.

F. The Department may issue a stop work order against a person who violates a provision of this Ordinance or a regulation, order, approved Forest Conservation Plan or maintenance agreement.

G. Before revoking approval of a Forest Conservation Plan, the Department shall notify the violator in writing and provide an opportunity for a hearing.