

Article VII

Afforestation and Retention

§31-7.1 Afforestation Requirement

A person making application after the effective date of this Ordinance for subdivision, local agency development project plan approval, grading, sediment and erosion control or construction project occurring on a specific tract that is 40,000 square feet or greater shall:

A. Conduct afforestation on the lot or parcel in accordance with the following:

(1) A tract having less than 20 percent of the net tract area in forest cover shall be afforested up to at least 20 percent of the net tract area for the following land use categories:

(a) Agriculture and resource areas, and

(b) Medium density residential areas;

(2) A tract with less than 15 percent of its net tract area in forest cover shall be afforested up to at least 15 percent of the net tract area for the following land use categories:

(a) Institutional development areas,

(b) High density residential areas,

(c) Mixed use and planned unit development areas, and

(d) Commercial and industrial use areas;

B. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in §31-7.1A (1) and (2) of this article:

(1) The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and

(2) Forest cut or cleared below the required afforestation level shall be reforested or afforested at a 2 to 1 ratio (2:1) and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

§31-7.2 Retention

The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

A. Trees, shrubs and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, non-tidal wetlands and critical habitats; and

B. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

§31-7.3 Retention Excepting a Variance

The following trees, shrubs, plants and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department that the applicant qualifies for a variance in accordance with §31-14.1 of this article:

A. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:

- (1) The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17,
- (2) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and
- (3) COMAR 08.03.08;

B. Trees that:

- (1) Are part of an historic site,
- (2) Are associated with an historic structure; or
- (3) Have been designated by the State or the Department as a National, State or County champion tree; and

C. Any tree having a diameter measured at 4.5 feet above the ground of:

- (1) 30 inches or more; or
- (2) 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.