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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session

1992

Bill No. CB-106-

1992

Chapter No.

94

Proposed and Presented by The Chairman (by request -

County

Executive)

Introduced by Council Members Casula, MacKinnon,

Pemberton,

Bell and Del

Giudice

Co-Sponsors

Date of Introduction October 27,

1992

BILL

AN ACT concerning

Woodland Conservation and Tree Preservation

FOR the purpose of adopting and implementing the revised Prince
George's County Woodland Conservation and Tree Preservation

Policy Document; adding and revising definitions related to site development; and amending provisions relating to fee schedules and requirements for grading permits.

BY repealing and reenacting with amendments:

SUBTITLE 4. BUILDING.

Sections 4-271,

4-273,

4-281,

4-345, and

4-352,

The Prince George's County Code

(1991 Edition).

SUBTITLE 25. TREES AND VEGETATION.

Section 25-117,

The Prince George's County Code

(1991 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 4-271, 4-273, 4-281, 4-345, 4-352 and 25- 117 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 4. BUILDING.

DIVISION 3. GRADING, DRAINAGE, AND EROSION CONTROL.

Sec. 4-271. Definitions.

(a) Wherever the following words are used in, or in conjunction with, the administration of this Division, they

shall have the meaning ascribed to them in this Section.

(1) **Afforestation.** The establishment of a tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

[(1)] (1.1) **Agricultural land management practices.**

Those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timber harvesting operations shall not be considered a part of this definition.

* * * * *

(25) **Forest stand delineation.** A detailed accounting of woody vegetation, prepared in document form, as required by the Prince George's County Woodland Conservation and Tree Preservation Policy Document, and as explained in the [M-NCPPC] publication ["Forest Stand Delineation: A methodology for doing forest stand delineations in Prince George's County, Maryland, 1988,"] "A Technical Manual for Woodland Conservation with Development in Prince George's County," as amended from time to time.

* * * * *

(29.1) Mitigation. The offsetting of forest values lost due to the destruction of woodlands without a permit or contrary to an approved Tree Conservation Plan by replanting

woodlands or other agreed upon means.

* * * * *

(30.1) Net Tract Area. For the purposes of woodland conservation, the gross tract area minus the approved 100-year floodplain and areas previously dedicated for public use.

* * * * *

(35.1) Reforestation. The replanting of trees on recently forested land as required by the publication "A Technical Manual for Woodland Conservation with Development in Prince George's County," as amended from time to time.

* * * * *

Sec. 4-273. Same; Exceptions.

(a) Provided all other provisions of this Division are met and excluding property located within a Chesapeake Bay Critical Area Overlay Zone, no permit will be required under the following conditions:

* * * * *

(9) Logging or timber harvesting operations on individually owned lots of 1/2 acre or less [and logging] in all zones.

(10) Logging or timber harvesting operations not exceeding five thousand (5,000) square feet of forest removal or five thousand (5,000) square feet of disturbed area [or its equivalent as, determined by the Building Official,] on lots in all zones except the Open Space (O-S) or Rural Agricultural (R-

A) Zones, and the Residential Estate (R-E) and Rural Residential (R-R) Zones which have an agricultural tax assessment, [.] unless the forest removal would violate an existing approved tree conservation plan.

(11) Logging or timber harvesting operations on lots in the Open Space (O-S) or Rural Agricultural (R-A) Zones, and the Residential Estate (R-E) and Rural Residential (R-R) Zones which have an agricultural tax assessment, resulting in the removal of not more than twenty thousand (20,000) square feet of forest cover or five thousand (5,000) square feet of disturbed area unless the disturbance would violate an existing approved tree conservation plan.

Sec. 4-281. [Grading] Development Bonds.

(a) In the evaluation of development sites, no [No] permit for grading and/or site development disturbing fifteen thousand (15,000) square feet or more of the site shall be issued until the applicant (excepting County Government Departments and agencies, [M]unicipalities and/or [M]unicipal Corporations for municipal-owned property), as principal, has posted a cash deposit or bond from an approved corporate surety or other collateral, including a certificate of guarantee pursuant to Section 2-441, if determined acceptable by the Building Official and by the County Attorney, to guarantee and assure that all work including afforestation and reforestation work required by the approved Tree Conservation Plan will be completed in accordance with the approved plans and the

provisions of this Division.

(b) The cash deposit or bond shall be in the amount of Two Hundred Dollars (\$200.00) plus Ten Cents (\$.10) per square foot of total site area minus that area to remain undisturbed and currently having an effective erosion-resistant ground cover or surface plus thirty cents (\$0.30) per square foot of area to be afforested or reforested.

* * * * *

(d) If all work authorized by the permit is not completed within the time specified therein or as otherwise provided for in Section 4-289 of this Code or violates any other term or condition, the cash deposit shall be forfeited, or, if a bond has been posted, payment in full to Prince George's County will be ordered. The funds, so received, will be used by the County for defraying the cost of contracting, including engineering and administration, and for the completion of all work authorized by the permit per the approved plans, but no less than restoring the site to meet the minimum requirements of this Division with particular emphasis on stability, safety, drainage, vegetative cover, and erosion control. If the foregoing cost exceeds the amount of deposit or bond, the permittee shall continue to be firmly bound under a continuing obligation for payment of all excess costs and expenses incurred by the County. Any unused portion of monies forfeited will be returned.

* * * * *

DIVISION 5. ADMINISTRATIVE PROVISIONS.

**Sec. 4-345. Requirements for Grading, Building
Construction, Removal, etc., generally.**

* * * * *

(k) Permits [issued] applied for prior to July 1, 1992, for sanitary landfills and for clean earth fills, when not pursuant to an approved plan of development, shall be exempted from compliance with the provisions of Section 25-117 of this Code.

* * * * *

Sec. 4-352. Fee Schedule.

(a) The fee schedule for work performed in connection with the Building Code shall be as follows:

* * * * *

(30) Woodland Conservation Threshold:

(A) Woodland replacement amount for forest cover removed during development is based on the net tract area of the site and the Conservation Threshold value found in Table 1. In addition, forest cover saved above the Conservation Threshold value is credited toward the replacement amount.

<u>Zone</u> ²	<u>Conservation</u>	<u>Zone</u> ²	<u>Conservation</u>
	<u>Threshold</u>		<u>Threshold</u>

O-S	50%	C-A	15%
R-A	50%	C-O	15%
R-E	25%	C-S-C	15%
R-R	20%	C-1	15%
R-80	20%	C-C	15%
R-55	20%	C-G	15%
R-35	20%	C-2	15%
R-20	20%	C-W	15%
R-T	20%	C-M	15%
R-30	20%	C-H	15%
R-30C	20%	C-R-C	15%
R-18	20%	I-1	15%
R-18C	20%	I-2	15%
R-10	20%	I-3	15%
R-10A	20%	I-4	15%
R-H	20%	M-X-T	15%
R-M-H	20%	E-I-A	15%
R-U	20%	V-M	20%
R-M	20%	V-L	25%

<u>Zone</u> ²	<u>Conservation</u> <u>Threshold</u>	<u>Zone</u> ²	<u>Conservation</u> <u>Threshold</u>
R-L	25%	R-S	20%
M-A-C	15%	T-D-O ¹	
L-A-C	15%	R-P-C ¹	

¹ In the T-D-O and the R-P-C Zones, the Conservation Threshold is determined by the underlying zone.

2 The Conservation Threshold for any zone included in Subtitle 27 of the Prince George's County Code which is not specifically listed herein shall be established based upon the criteria contained in Natural Resources Article, Sec. 5-1601 through 5-1613 Forest Conservation Act.

Table 1: Woodland Conservation requirements by zone for all zones

(B) In the O-S and R-A zones the District Council may reduce the Conservation Threshold to a minimum of 25% (1) for the following active recreation uses: ball fields, golf courses, community recreation centers, playgrounds, tennis courts, and basketball courts; or (2) if a reduction is necessary to protect or enhance a specific ecological system or to prevent or eliminate a public health hazard, on a lot or parcel on which activity occurred prior to November 21, 1989, and continues to occur, that materially affected the condition and use of the land, based on a recommendation from the Director of the Department of Environmental Resources.

(31) Reforestation Fee-in-Lieu:

In cases where on-site or off-site reforestation for forest cover removed from a site above the Conservation Threshold is not feasible, a fee-in-lieu of woodland replacement may be assessed. This fee shall be assessed at a rate of thirty cents (\$0.30) per square foot multiplied by the area in square feet of forest removal, down to the Conservation Threshold, and that product multiplied by one-quarter (0.25).

The fee system, instead of on-site or off-site reforestation, will be at the discretion of the approving authority. These funds shall be used only for the costs associated with afforestation/reforestation, woodland site acquisition, and site preparation on public or private lands for establishing woodlands. Fees will be collected by the Department of Environmental Resources prior to the issuance of a permit.

SUBTITLE 25. TREES AND VEGETATION.

Sec. 25-117. Woodland Conservation and Tree Preservation.

(a) Authority

(1) The revised Prince George's County Woodland Conservation and Tree Preservation Policy Document, (October 1992), Part [3] 2 through Part 7 (inclusive), is hereby adopted by reference and made a part of this Subtitle with the same force and effect as the regulations set forth herein.

* * * * *

(b) Enforcement, mitigation

* * * * *

(2) The permittee shall complete the approved mitigation measures within the time specified by the Planning Director, or his designee, but not later than prior to the issuance of any use and occupancy certificate(s). Only field grown nursery stock, planted in an approved pattern, shall be used for mitigation. Specimen trees shall be replaced according to the cost formula developed by the International Society of Arboriculture (ISA) and published in the [Seventh

Edition] most recent edition of "Valuation of Landscape Trees, Shrubs, and Other Plants."

(3) Woodland destroyed or damaged without a permit, or in violation of either the Prince George's County Code or an approved Tree Conservation Plan, shall be replaced or mitigated at a cost not to exceed [\\$1.20] \$1.50 per square foot. In addition, any specimen trees destroyed shall be replaced or mitigated according to the cost formula developed by the International Society of Arboriculture (ISA) and published in the [Seventh Edition] most recent edition of "Valuation of Landscape Trees, Shrubs, and Other Plants." The property owner or permittee shall provide a completion bond acceptable to the County Attorney to cover the mitigation measures approved by the Planning Director, or his designee.

* * * * *

(c) Minor changes

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[(2) Other minor changes or revisions to a Tree Conservation Plan may be approved by the Planning Director only with the concurrence of the Director of the Department of Environmental Resources.]

SECTION 2. BE IT FURTHER ENACTED that the Woodland Conservation and Tree Preservation Policy Document is hereby repealed in its entirety and reenacted with the following amendments.

**Prince George's County
Woodland Conservation And Tree
Preservation Policy Document**

**Parris N. Glendening
County Executive**

**Richard J. Castaldi
County Council Chairman**

October 1992

**Prince George's County
Woodland Conservation and Tree
Preservation Policy Document**

Introduction

On November 21, 1989, the Prince George's County Council enacted the Prince George's County Woodland Conservation and Tree Preservation Ordinance and adopted, by reference, the Prince George's County Woodland Conservation/Tree Preservation Policy Document. This action culminated a process initiated on Arbor Day 1989 when Prince George's County Executive Parris N. Glendening submitted legislation to the Council for consideration.

In addition to adopting the Policy Document, the Council amended the Building Code to provide for woodland conservation in conjunction with the grading permit process. Subtitle 25, entitled "Trees and Vegetation", was amended to adopt guidelines for enforcement of the policy and to establish mitigation fees to discourage the unauthorized clearing of woodlands. Incentives were also provided to encourage tree preservation by allowing variations from the strict application of the Building Code's site grading and drainage requirements.

In addition, the Subdivision Ordinance was amended to require the submittal of a Forest Stand Delineation and a Tree Conservation Plan with every Preliminary Plan of Subdivision. Finally, the Zoning Ordinance was changed to require the submittal of a Forest Stand Delineation in conjunction with all Comprehensive Design Plans, Conceptual Site Plans, Detailed Site Plans and Special Exceptions.

On April 30, 1991, Maryland Governor William Donald Schaffer signed the State Forest Conservation Act into law. Although modeled after the successful Prince George's County ordinance, the State Law required revisions to the County's program so that it would comply fully with the new State standards. As part of these legislative revisions, the Prince George's County Council adopted the revised Prince George's County Woodland Conservation and Tree Preservation Policy Document.

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PART 1

**Woodland Conservation And Tree
Preservation Policy Overview**

Prince George's County is committed to the conservation of its woodland resources. It has been estimated that at one time 2,500 acres of trees, approximately the area of 2,400 football fields, were lost every year in this County. Unfortunately, by the time we notice the loss of trees, it is too late. These gentle giants are rapidly disappearing, along with the wildlife communities that call them home.

Trees provide numerous benefits. They offer shade from heat, generate oxygen and soften the hard edges of buildings and highways. While progress can be measured in terms of homes built, jobs created and tax base increased, the sophistication of a community can be measured by its commitment to develop with sensitivity to existing natural features.

To arrest the unnecessary destruction of woodlands and specimen trees, Prince George's County has developed a comprehensive woodland conservation and tree preservation policy. By working with the development community through a negotiated tree preservation plan, setting site specific woodland conservation requirements and making commitments to use proper techniques for saving trees, the loss of irreplaceable woodland habitat can be reduced significantly.

This document details comprehensive woodland conservation and tree preservation policy in Prince George's County. By using the Conservation Evaluation Area as a countywide inventory system, the Forest Stand Delineation as a site specific planning tool, and the Tree Conservation Plan to properly protect trees during and after construction, the natural woodland resources of the County can be monitored, detailed and protected.

Tree Conservation Policy

It is a policy of the Prince George's County Government and the Prince George's County Planning Board to conserve and protect trees, woodlands and wildlife habitat by requiring site planning techniques and construction practices which prevent adverse affects on land, trees and forests and also promote alternative design opportunities as incentives for the development community.

To implement this policy the County has established:

1. **Goals** for the conservation of trees and forest cover for present and future citizens of Prince George's County;
2. **Requirements** for the preservation and protection of trees and woodlands having State, local or national significance, particularly those trees of notable size, species, historical context or ecological role;
3. **Procedures** to manage the necessary clearing and disturbance of woodlands that promote habitat protection and the maintenance of healthy vegetation;
4. **Standards** that require the conservation and protection of forests and individual trees sufficient to safeguard ecological and aesthetic values;
5. **Incentives** to conserve and preserve woodland elements through the appropriate use of alternative and innovative design; and
6. **Mitigation** fees for removing trees or forest cover without an approved Tree Conservation Plan.

PART 2

Exemptions

The following activities are exempted from the woodland conservation/tree preservation requirements:

- o Any activity or series of activities that results in the cumulative disturbance of less than 5,000 square feet of woodland during a five year period provided that the disturbance does not occur in an area designated for conservation under a previously approved Tree Conservation Plan;
- o Activities within the Chesapeake Bay Critical Area;
- o Road or highway construction projects that are covered by the Natural Resources Article, Sec. 5-103;
- o Any activity on a lot or parcel or combination of lots and parcels less than 40,000 square feet in area that is not subject to a previously approved Tree Conservation Plan;
- o Any activity on a lot or parcel or combination of lots and parcels of any size that has less than 10,000 square feet of woodland that is not subject to a previously approved Tree Conservation Plan.
- o Commercial logging and timber harvesting operations on agriculturally-assessed property, provided the land is the subject of a Declaration of Intent pursuant to COMAR 08.19.01.05 filed with the Department of Environmental Resources.

An application for an exemption from the woodland conservation/tree preservation requirements shall be submitted in writing to the Prince George's County Planning Director or designee. All applications shall include sufficient documentation to justify the granting of an exemption. A letter either granting or denying the exemption will be issued within 15 working days of application receipt. Letters of exemption are valid for two years from the date of issuance.

PART 3

Conservation Evaluation Areas

Conservation Evaluation Areas have been identified throughout Prince George's County to provide base line information on the location, size and configuration of woodlands. Successive updates of the Conservation Evaluation Areas will provide the information needed to evaluate the effectiveness of the Prince George's County Woodland Conservation and Tree Preservation Program with respect to the area of woodland lost, the locations of woodlands lost and new woodlands created.

Conservation Evaluation Areas are identified using the best available information gleaned from aerial photography, existing map information and field collected data. Conservation Evaluation Areas may include existing natural features that may limit development or require the use of optional design techniques, special engineering practices or extra structural demands for the development of the land. The Conservation Evaluation Area maps are located in the offices of the M-NCPPC Natural Resources Division.

Conservation Evaluation Areas for the County were approved by the Prince George's County Planning Board in November of 1990. Conservation Evaluation Areas are included in Master Plans as they are revised and provide a readily available reference to determine where woodland conservation efforts are required. This information is used by the reviewing agencies, the development community and citizens to initiate a more detailed review of land use planning as it relates to woodland conservation. Conservation Evaluation Areas will be reviewed every two years and updated periodically as new aerial photography becomes available to document the results of woodland conservation efforts throughout the County. Changes will be reviewed and approved by the Prince George's County Planning Board.

PART 4

Forest Stand Delineation

Forest stand delineation is a procedure adapted by the Natural Resources Division of the Maryland-National Capital Park and Planning Commission (M-NCPPC) to provide a detailed accounting of woody vegetation on a site. The method is designed to provide the applicant and the review staff adequate information for woodland conservation and individual tree protection. The method is a synthesis of techniques developed by foresters and wildlife ecologists to quickly determine forest stand composition and general habitat types.

The preferred technique for accomplishing a Forest Stand Delineation can be found in the publication "A Technical Manual for Woodland Conservation with Development in Prince George's County," (October 1992). Alternative techniques, approved by the M-NCPPC Natural Resources Division, are acceptable. A Forest Stand Delineation must be prepared by a Licensed Professional Forester, a Licensed Landscape Architect or other professionals that are approved by the Prince George's County Department of Environmental Resources, Forest Resources Unit, the M-NCPPC Natural Resources Division and the State of Maryland Department of Natural Resources under the criteria in COMAR 08.19.06.01. Details about gaining approval to prepare Forest Stand Delineations are found in the Technical Manual.

The key to competent site specific woodland conservation and tree preservation is the early submittal of information about the quality and quantity of forest cover and individual specimen trees. The tool for this is the Forest Stand Delineation. Unless exempt, an adequate Forest Stand Delineation shall be required as part of the submittal package if the lot or parcel of land or the combination of lots and parcels has more than 10,000 square feet of total woodland coverage, is greater than 40,000 square feet in area and is in application for any of the following:

- o a Basic Plan of a Comprehensive Design Zone (M-A-C, L-A-C, R-U, R-M, R-S, E-I-A, R-L, V-M, and V-L) (Subtitle 27);
- o a Special Exception (Subtitle 27);
- o a zoning map amendment to the R-P-C zone;
- o a conceptual site plan or Comprehensive Design Plan (I-3, MXT, etc.) (Subtitle 27);
- o a Preliminary Plat of Subdivision (Subtitle 24);

- o a Detailed Site Plan or Specific Design Plan (Subtitle 27);
- o a Grading Plan (Subtitle 4);
- o Public Agency projects;
- o Utility projects.

For the purposes of woodland conservation, all local government projects not using State funds and public utility projects not exempted under the state Forest Conservation Act are required to have Forest Stand Delineations submitted with development plans and are to be in conformance with an approved Tree Conservation Plan. Tree Conservation Plans for these projects will be reviewed and approved by the M-NCPPC Natural Resources Division. Impacts to priority woodlands for preservation, as well as the extent of clearing, are to be minimized. Woodland conservation thresholds based on zoning categories do not apply. Woodland removed shall be replaced on an acre for acre basis. In lieu of woodland replacement, a local agency or a public utility may pay \$.10 per square foot of woodland canopy removed to the County Reforestation fund. Unless otherwise designated by the Maryland Department of Natural Resources, individual projects or local government projects using any State funds, public utility projects exempted under the State Forest Conservation Act, and all projects performed by the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission will be reviewed and approved by the State of Maryland within the context of Natural Resources Article, Sec 5-1601 through 5-1613 Forest Conservation Act and COMAR 08.19.04 (Forest Conservation Program) or the State's Certificate of Public Convenience and Necessity (Natural Resources Article, Sec. 5-1603(f)) approval process. All road grading projects which are not part of an approved record plat and which are not reviewed by the State under Natural Resources Article Sec. 5-103 shall be subject to the same requirements as local government projects.

The M-NCPPC will determine the adequacy of a submitted Forest Stand Delineation. The M-NCPPC has 15 working days from the time of receipt of the Forest Stand Delineation to respond, in writing, to the applicant regarding inadequacies that would preclude acceptance. If the applicant or his agent is not contacted in writing within the prescribed time frame, it is assumed that the delineation is adequate for review purposes. If the delineation is deemed inadequate, the applicant must submit an acceptable revised delineation at least 30 days prior to the public hearing for that application. A Forest Stand Delineation shall be deemed adequate if it has the minimum

submittal requirements as described in "A Technical Manual for Woodland Conservation with Development in Prince George's County," (in Part 4 - 3rd page).

A Simplified Forest Stand Delineation may be allowed at the discretion of the Prince George's County Planning Director or designee. Request and justification for using this option must be made, in writing, to the Planning Director. Details concerning justification and submittal requirements can be found in "A Technical Manual for Woodland Conservation with Development in Prince George's County", (In Part 4 - 3rd page).

A Forest Stand Delineation will be used during existing review processes to determine the most suitable areas for woodland conservation or tree preservation. This will help the County to achieve its woodland preservation and conservation goals. Forest Stand Delineations shall be updated if the Natural Resources Division finds that significant woodland changes have occurred since the last Forest Stand Delineation for the site.

PART 5

Woodland Conservation Criteria

It is the intent of the woodland conservation/tree preservation program that the following areas shall have priority for consideration as preservation areas or for expansion and enhancement through afforestation or reforestation:

- o **Wooded 100-year floodplains** as defined in Subtitle 27 of the Prince George's County Code. The unavoidable removal of woodlands within 100-year floodplains shall be replaced on an acre for acre basis;
- o **Wooded nontidal wetlands** as defined in Title 9, Natural Resources Article, of the Annotated Code of Maryland. Unavoidable removal of wooded nontidal wetlands is subject to both the nontidal wetlands regulatory requirements and requirements of COMAR 08.19.03.6.1(D);
- o **Wooded stream corridors** with drainage areas greater than or equal to 50 acres and a 50 foot wide nondisturbance buffer measured from the normal flow edges of the stream;
- o **Wooded slopes** equal to or greater than 25%, or greater than 15% when associated with a soil having a K value greater than 0.35, and having a contiguous area coverage of 10,000 square feet or greater;
- o **Large contiguous wooded areas and critical woodland habitats** as defined in COMAR 08.19.03.7.2(B);
- o **Specimen and historic trees** as defined in COMAR 08.19.03.7.2(D).

Exceptions to the above mentioned priority preservation areas that are consistent with the woodland conservation/tree preservation policy may be approved by the Prince George's County Planning Board in conjunction with the Tree Conservation Plan and other County approval processes.

Lots, parcels, or combinations of lots or parcels that are 40,000 square feet or larger that have wooded areas totaling 10,000 square feet or greater shall comply with the woodland conservation requirements established in the table on the following page of this document.

WOODLAND CONSERVATION REQUIREMENTS BY ZONE FOR ALL ZONES

Conservation/Afforestation			
Conservation/Afforestation Zone**	Threshold*	Zone**	
Threshold*			
O-S****	50%/20%	C-A	15%
R-A****	50%/20%	C-O	15%
R-E****	25%/20%	C-S-C	15%
R-R****	20%/15%	C-1	15%
R-80	20%/15%	C-C	15%
R-55	20%/15%	C-G	15%
R-35	20%/15%	C-2	15%
R-20	20%/15%	C-W	15%
R-T	20%/15%	C-M	15%
R-30	20%/15%	C-H	15%
R-30C	20%/15%	I-1	15%
R-18	20%/15%	I-2	15%
R-18C	20%/15%	I-3	15%
R-10	20%/15%	I-4	15%
R-10A	20%/15%	M-X-T	15%
R-H 20%/15%	20%/15%	V-M	
R-U 25%/20%	20%/15%	V-L	
R-M 20%/15%	20%/15%	R-S	
R-L	25%/20%	R-P-C	***
R-M-H	20%/15%	T-D-O	***
M-A-C	15%	E-I-A	15%

L-A-C

15%

C-R-C

15%

* **A single number means that the same percentage applies to both thresholds.**

** **The Conservation/Afforestation Thresholds for any zone included in Subtitle 27 of the Prince George's County Code which is not specifically listed herein shall be established based upon the criteria contained in Natural Resources Article, Sec. 5-1601 through 5-1613 Forest Conservation Act.**

*** **In the T-D-O and R-P-C zones, the Conservation/Afforestation Thresholds are determined by the underlying zone.**

For parcels or lots that have a Conservation Threshold of 20% or more and on which the existing woodland is less than the Conservation Threshold, the Conservation Threshold will be reduced to the percentage of existing woodland down to 20% of the net tract area.

In the O-S and R-A zones the District Council may reduce the Conservation Threshold to a minimum of 25% (1) for the following active recreation uses: ball fields, golf courses, community recreation centers, playgrounds, tennis courts, and basketball courts; or (2) if a reduction is necessary to protect or enhance a specific ecological system or to prevent or eliminate a public health hazard, on a lot or parcel on which activity occurred prior to November 21, 1989, and continues to occur, that materially affected the condition and use of the land, based on a recommendation from the Director of the Department of Environmental Resources.

Maintaining flexibility in designing woodland conservation areas into a development plan is a primary goal. It will not be possible to preserve all the trees during development. When woodlands must be disturbed, woodland conservation should follow a sequence of actions consisting of avoidance, minimization of disturbance, restoration on-site, or replacement off-site. The preferred sequence for woodland conservation, after techniques for the preservation of existing trees have been exhausted or trees on the site have been found to be inappropriate for the development plan, is as follows:

1. **Selective clearing** and supplemental planting within the proposed woodland conservation areas;
2. **On-site afforestation/reforestation** using transplanted stock, relocated from the site or surrounding areas, that is greater than 2.5 inches in diameter at breast height;

3. **On-site afforestation/reforestation** using native whip and seedling stock;

4. **On-site natural regeneration** with appropriate protection and long term management;
5. **Landscaping** using field grown nursery stock under an approved landscaping plan that establishes a forest at least 35 feet wide covering 2,500 square feet of area;
6. **Off-site afforestation/reforestation** using transplanted stock, relocated from the site or surrounding areas, that is greater than 2.5 inches in diameter at breast height;
7. **Off-site afforestation/reforestation** using native whip and seedling stock;
8. **Off-site natural regeneration** with appropriate protection and long term management.

If woodland replacement is proposed using options 1 through 8, then it will be necessary to include a three to five year preservation and management scheme as part of an approved Tree Conservation Plan.

If less than 15% of the net tract of a commercially or industrially zoned parcel or lot is wooded, then the parcel or lot must be afforested or reforested up to the 15% level. If less than 20% of the net tract area of a residentially zoned parcel or lot is wooded, then the parcel or lot must be afforested or reforested up to the 20% level. In zones that have required open space or green space requirements and are totally or partially wooded, the preference is that a percentage part of the open space or green space be retained in existing trees. Woodland conservation efforts can be counted toward fulfilling open space requirements as long as all other zoning requirements are met on the site. In addition, any lot or parcel platted prior to November 21, 1992 shall be exempt from the afforestation requirement.

In an effort to replace some of Prince George's County's woodlands that have been lost over the past years and to protect woodlands for the future, a method has been developed to calculate a woodland replacement amount for forest cover removed during development. This replacement amount is based on the amount of a site's woodlands above the Conservation Threshold percentage requirements found in Woodland Conservation Table in Part 5. In addition, forest cover saved above the Conservation Threshold value is credited toward the replacement amount on an acre for acre basis.

A site's woodland replacement amount is calculated by subtracting any woodland credits for preservation above the

Conservation Threshold from 1/4 of the woodlands on the site removed above the Conservation Threshold. This woodland replacement can be done in the form of on-site or off-site afforestation/reforestation with native planting stock or in cases where on-site or off-site afforestation or reforestation is not feasible, a fee-in-lieu of woodland replacement may be assessed. This fee shall be assessed at a rate of \$.30 (thirty cents) per square foot multiplied by the calculated woodland replacement amount. The use of the fee system, instead of on-site or off-site afforestation/reforestation, will be at the discretion of the approving authority. These funds shall be used only for the costs associated with afforestation or reforestation, woodland site acquisition, and site preparation on public or private lands for establishing woodlands.

The woodland replacement requirements as noted above may be waived by the Prince George's County Planning Director, or designee, when the following conditions apply: (1) the total area of woodland disturbed does not exceed 40,000 square feet, and, (2) no woodland is disturbed below the Conservation Threshold, and, (3) the project involves the construction of one single family dwelling.

Removal of woodlands below the Conservation Threshold is strongly discouraged. For every acre of existing forest cover that is removed from a site below the Conservation Threshold value, the woodland replacement rate is 2 acres for every acre removed. The required woodland replacement for woodland removed below the Conservation Threshold must be provided by the applicant through either on-site or off-site reforestation/afforestation. The fee-in-lieu option may be allowed for no more than fifty percent of the required woodland replacement for woodland removed below the threshold. All reforestation/afforestation required for any project shall be completed within two years of the completion of the activity and prior to the release of any bonds for afforestation/reforestation.

Disturbances to wooded nontidal wetlands will be subject to the requirements of Natural Resources Article, Sec. 8-1202 through 8-1211 and the Prince George's County Woodland Conservation and Tree Preservation Ordinance. Disturbances to wooded nontidal wetlands, where allowed under COMAR 08.05.04, are subject to reforestation rates established as part of the wetland permitting process. In an effort to provide equity between the two process requirements, the area of disturbed nontidal wetland should be subtracted from the total disturbed woodland area that is used to calculate the forest replacement rate for a development site. In addition, the area required for mitigation under the wetland permit can be used to offset the forest replacement rate for a development site.

PART 6

Tree Conservation Plans

The Tree Conservation Plan is a document negotiated during the existing review processes by the applicant and the M-NCPPC addressing woodland conservation, individual tree preservation and the protection of existing woodlands. The Tree Conservation Plan is a site map delineating the areas to be saved and the text that details any general or plan specific requirements, penalties or necessary mitigation measures. The intent of these documents is to provide a means to help guarantee that the tree preservation elements agreed to during the review and approval processes will be carried out in the field. A Tree Conservation Plan must be prepared by a Licensed Professional Forester, a Licensed Landscape Architect or other professionals that are approved by the Prince George's County Department of Environmental Resources, Forest Resources Unit, the M- NCPPC Natural Resources Division and the State of Maryland Department of Natural Resources under the criteria in COMAR 08.19.06.01.

Except for the Basic Plan phase of a Comprehensive Design Zone, a Type I Tree Conservation Plan shall be submitted with any plan that requires a Forest Stand Delineation including plans submitted from public agencies. This proposed plan, submitted by the applicant at the same scale as the grading or development plan, incorporates data from the Forest Stand Delineation and conforms to the woodland conservation requirements of the zone (see Table 1). During different stages of the review process, the Type I Tree Conservation Plan may be modified to reflect changes necessitated by more detailed levels of analysis. The Type II Tree Conservation Plan for residential projects shall be approved prior to the approval of a Detailed Site Plan or the approval of a Grading Plan. The Type II Tree Conservation Plan for commercial or industrial projects shall be approved prior to the approval of a Detailed Site Plan or a Grading Plan, whichever comes first.

The requirements for submittal of a Type I Tree Conservation Plan as part of Phase II of a Comprehensive Design Zone, a Conceptual Site Plan, a Special Exception, or a preliminary plat of subdivision are as follows:

- o a plan at the same scale as the grading or site development plan;
- o a table stating the zoning, the total site area, the square feet of trees to be preserved and the percentage of woodland conservation required;

- o clear graphic indication of the tree preservation areas on the plan;
- o standard general notes and application specific notes.

The requirements for submittal of a Type II Tree Conservation Plan as part of a Detailed Site Plan or a grading plan are as follows:

- o a plan at the same scale as the grading or site development plan;
 - o a table stating the zoning, the total site area, the square feet of trees to be preserved and the percentage of woodland conservation required;
- o clear graphic indication of the tree preservation areas on the plan;
- o standard general notes and application specific notes;
 - o locations and types of protective devices to be used during construction activities to protect trees designated for preservation;
 - o construction details of permanent or temporary devices to assure protection and normal growth after construction;
 - o afforestation/reforestation details as outlined in "A Technical Manual for Woodland Conservation with Development in Prince George's County," (October 1992);
 - o construction time table addressing tree preservation activities and afforestation/reforestation activities.

(see the Technical Manual for other information, options, recommended procedures and materials)

The Type II Tree Conservation Plan will be reviewed by M-NCPPC staff within 30 days of receipt of the documents. The Tree Conservation Plan must be in compliance with the woodland conservation requirements of the existing zone as established in Table 1. The Prince George's County Planning Board will approve or deny the Tree Conservation Plan as part of the existing approval processes for Phase II and Phase III of a Comprehensive Design Zone, for preliminary plats of subdivision, Conceptual Site Plans and Detailed Site Plans. The District Council will approve or deny the Tree Conservation Plan during the existing review processes for Special Exceptions. Appeals of the Planning Board decision shall be

made within 15 days in accordance with the Planning Board rules and procedures.

In the case of a grading permit, the Prince George's County Planning Director, or designee, will approve or deny the Tree Conservation Plan. This decision may be appealed to the Planning Board who shall hold a hearing in accordance with established Planning Board rules and procedures. The Planning Director, or designee, may approve minor changes to a Tree Conservation Plan if it is determined that field conditions make strict enforcement of the approved plans inappropriate and/or changes made do not increase the area of disturbance by more than 500 square feet or encroach into the approved 100-year floodplain. The revision must in no way affect wetlands and must meet all the requirements of the Zoning Ordinance.

Any covenants or easements that are necessary to maintain the preserved, afforested, or reforested woodland areas or individual trees on a site shall be recorded in the land records of Prince George's County. This recordation shall occur prior to the issuance of a Use and Occupancy certificate, and liber and folio numbers shall be submitted to the Prince George's County Building Official. The Prince George's County Planning Director, or designee, may approve the use of other protective agreements that will ensure no adverse impacts to preserved woodlands.

Permitted uses in woodland conservation areas are limited to activities that will not adversely impact the woodland. These activities will generally be passive recreational uses, forest management activities (under a Forest Conservation and Management Agreement or Forest Resource Management Plan), or other activities as approved by the Prince George's County Planning Director, or designee, as part of the Tree Conservation Plan.

A Tree Conservation Plan is valid and enforceable until revised or replaced by another Tree Conservation Plan for the site. If a Tree Conservation Plan has been approved based on erroneous information or if conditions have been found to be significantly different than stated in the Tree Conservation Plan, the Tree Conservation Plan may be revoked in writing by the approving authority. Tree Conservation Plans approved between November 21, 1989 and the effective date of this ordinance will be in effect until such time as revisions to the development plan require a significant revision to the Tree Conservation Plan. Revisions which require a significant change in the location or quality of woodland preserved will be considered significant.

The Prince George's County Department of Environmental Resources shall assist the owners of agriculturally assessed land in obtaining the necessary County approvals for timber harvesting, including permits. For information regarding these services, contact the Environmental Policy Branch of the Department of Environmental Resources, 9400 Peppercorn Place, Landover, Md. 20785.

For destroying woodlands without a permit or contrary to an approved Tree Conservation Plan, the mitigation fee is \$1.50 per square foot of woodland area destroyed, unless otherwise agreed to by the Department of Environmental Resources (DER) and M-NCPPC. Destruction of woodlands means any activity that significantly decreases the health or viability of woody vegetation, including individual trees, in a woodland area. Destruction of woodlands includes, but is not limited to: pruning, cutting, girdling, root mat disturbance, or chemical/biological poisoning. Specimen trees on any site

greater than 40,000 square feet shall be replaced according to the Basic Formula Method published by the International Society of Arboriculture (ISA) in the most recent edition of "Valuation of Landscape Trees, Shrubs, and Other Plants." The cost of mitigation includes a \$0.50 (fifty cents)/square foot charge to be applied to tree planting in Prince George's County.

Enforcement of the Tree Conservation Plan is by the Prince George's County Department of Environmental Resources. In the event that mitigation is necessary because of the destruction of woodlands without a permit or contrary to an approved Tree Conservation Plan, the permittee shall obtain approval of mitigation measures from the M-NCPPC. The permittee shall submit mitigation plans within 30 days of receipt of a notification of nonconformance from DER. These plans shall be approved or denied by the M-NCPPC within 30 days of receipt of mitigation plans.

The implementation of all mitigation measures shall be the responsibility of the permittee. Mitigation shall be accomplished on an acre for acre basis even if the mitigation area exceeds the woodland conservation requirement. Mitigation plans shall be reviewed by the M-NCPPC staff. The mitigation shall use plant materials as listed in the approved tree species list for afforestation/reforestation as found in "A Technical Manual for Woodland Conservation with Development in Prince George's County," (October 1992). Reforestation, done as part of a mitigation plan, shall be accomplished on-site or off-site on an acre for acre basis. Mitigation funds shall be used for the reasonable costs of materials and labor plus the \$0.50 (fifty cents)/square foot charge. The \$0.50 charge shall be placed in a Department of Environmental Resources fund to be used for tree planting in Prince George's County. Monies in excess of this charge, plus the reasonable cost of materials and labor for the entire mitigation project, shall be returned to the person assessed for mitigation.

The permittee shall complete the approved mitigation measures in a time period specified by the Prince George's County Planning Director, or designee, but no later than prior to the issuance of any permanent use and occupancy certificate(s).

Prince George's County will periodically review the Woodland Conservation and Tree Preservation Program to determine its effectiveness and the need for any modifications.

The Maryland Department of Natural Resources will be provided an opportunity to review the program and address its effectiveness in satisfying the requirements of the State Forest Conservation Act. In addition, the M-NCPPC Natural Resources Division and Prince George's County Department of Environmental Resources, Forest Resources Unit will provide an

annual report to the Prince George's County Executive which includes a program analysis.

PART 7

Glossary Of Terms

Activity means any grading, site development or timber harvest which requires a permit under Subtitle 4 of the Prince George's County Code.

Afforestation means the establishment of a tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

Diameter at Breast Height (DBH) means the diameter of a tree measured at a height of 4.5 feet from the ground.

Forest, Woodland, or Forest Cover means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. This includes areas that have at least 100 trees per acre with at least 50 trees that are two inches or greater in DBH. This also includes areas that have been cut, but not cleared.

Forest Management Plan means a plan prepared by a Licensed Professional Forester that establishes best conservation and management practices for a landowner in assessment of the resource values of forested properties, developed in consultation with the landowner.

Mitigation means the offsetting of forest values lost due to the destruction of woodland without a permit or contrary to an approved Tree Conservation Plan by replanting woodlands or other agreed upon means.

Net Tract Area for the purposes of woodland conservation means the gross tract area minus the approved 100-year floodplain and areas previously dedicated for public use.

Reforestation means the replanting of trees on recently forested land as required by the publication "A Technical Manual for Woodland Conservation with Development in Prince George's County," (October 1992).

Specimen Tree means a particularly impressive or unusual example of a species due to its size, shape, age or any other trait that epitomizes the character of the

species. This definition includes all National, State and County Champion trees.

Tree means a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reaches a height of at least twenty feet at maturity.

Woody Vegetation means plants with persistent stems lasting more than year and increasing in diameter annually.

SECTION 3. BE IT FURTHER ENACTED that any approved Special Exception, Conceptual Site Plan, Comprehensive Design Plan, or Detailed Site Plan, which was valid on November 21, 1989, or any preliminary plat of subdivision approved between January 1, 1988 and November 21, 1989, shall be exempt from the provisions of this Act until December 31, 1994, provided that one or more of the following has occurred prior to November 21, 1993:

- (a) grading permits have been issued which allow disturbance of at least twenty percent of the net tract area;
- (b) ten percent of the net tract area has been graded; or
- (c) actual construction of a significant portion of the on-site public facilities, such as water and sewer or transportation facilities, has occurred.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 24th day of November, 1992.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Richard J. Castaldi
Chairman

ATTEST:

Joyce T. Sweeney

Acting Clerk of the Council

APPROVED:

DATE: _____

BY:
Parris N. Glendenning
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions
that remain
unchanged.