

o v e r v i e w o f

# Subtitle 25 Update

## Trees and Vegetation

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Prince George's County Planning Department

Prince George's County Council  
Committee of the Whole  
02-06-2024





# Why is an update to this subtitle required?

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HB 723/ SB 526 entitled “Natural Resources – Forest Preservation and Retention” was signed into law on May 8, 2023.



**Mandate**

The bills require significant changes to our current code with an **effective date of July 1, 2024.**



# Divisions of Subtitle 25

## (Trees and Vegetation)

### Division 1. General

Implementation by the Department of Public Works and Transportation (DPW&T) regarding roadside trees and trees in rights-of-way.

### Division 2. Woodland and Wildlife Habitat Conservation Ordinance

Implementation by the Maryland-National Capital park and Planning Commission (M-NCPPC) and the Department of Permitting, Inspections and Enforcement (DPIE) for development.

### Division 3. Tree Canopy Cover Ordinance

Implementation by M-NCPPC and DPIE on developed and developing sites.





# Overview of Major Changes

**01**

Stream Buffers

**02**

Tree Canopy Cover

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Forest Thresholds and  
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Subtitle 25 Update

# Stream Buffers

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# New State Requirement

## For fully forested stream buffers:

- 50-feet for intermittent streams
- 100-feet for perennial streams

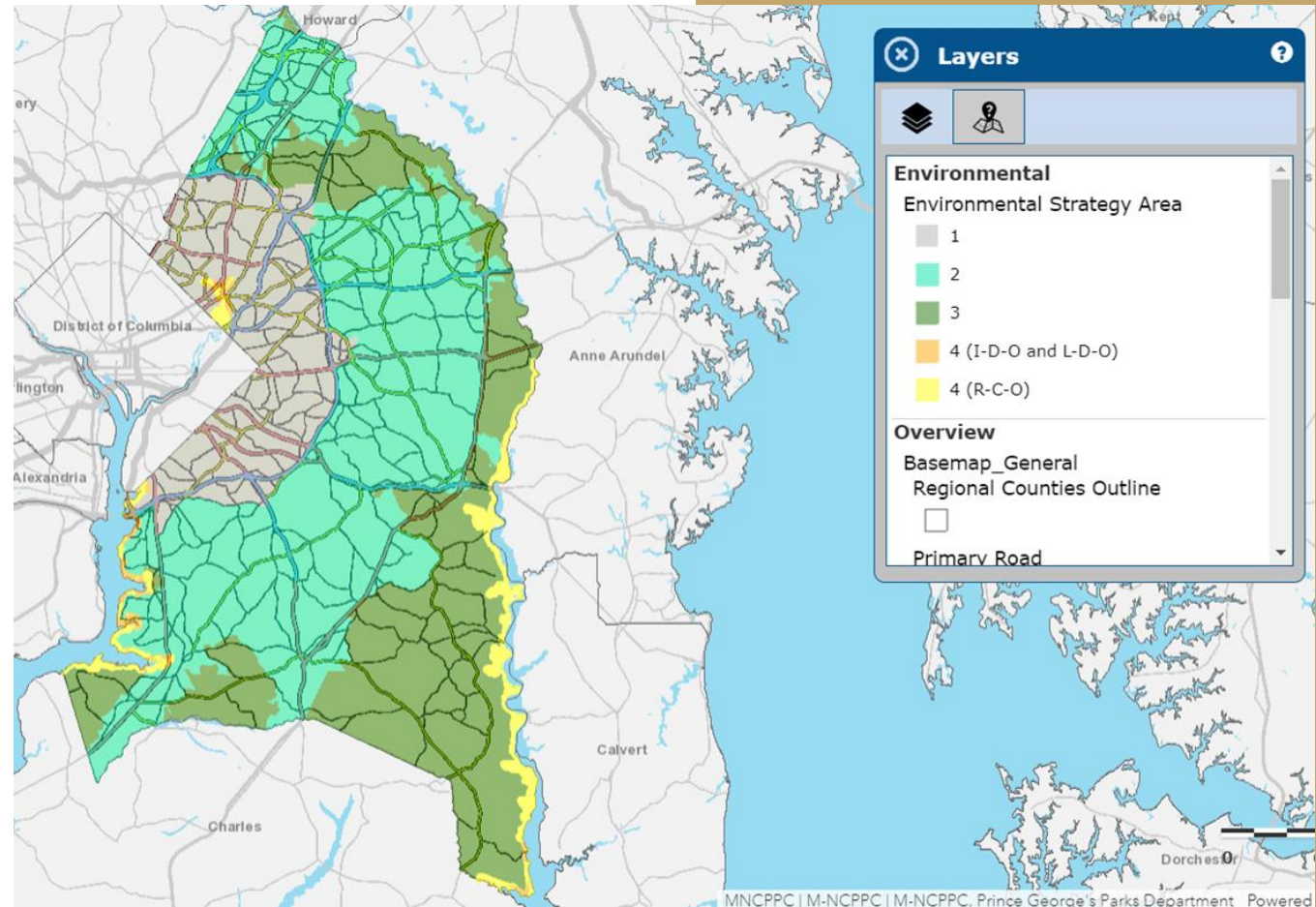




Subtitle 25 Update

# Plan 2035 Environmental Strategy Areas (ESAs)

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# Stream Buffer Widths



## Comparison of Existing and Proposed Stream Buffer Widths

Environmental Strategy Area	Development Location	Current Buffers on Regulated Streams (Each side)	Proposed Buffers on Regulated Streams (Each side)	Comments
<b>ESA-1</b>	Transit-Oriented Centers	60-feet	75 feet	Increase of 15-feet (30 feet overall)
	Outside of Transit-Oriented Centers	60-feet	100 feet	Increase of 40-feet (80 feet overall)
<b>ESA-2</b>	Transit-Oriented Centers	75-feet	75 feet	No change recommended
	Outside of Transit-Oriented Centers	75-feet	100 feet	Increase of 25-feet (50 feet overall)
	Outside of Transit-Oriented Centers	75-feet	100 feet	Increase of 25-feet (50 feet overall)
<b>ESA-3</b>	Agricultural Rural	100-feet	100 feet	No change recommended



# Stream, Wetland, and Water Quality Protection and Stormwater Management

(a)

Subdivisions shall be designed to minimize the effects of development on land, streams, and wetlands, to assist in the attainment and maintenance of water quality standards, and to preserve and enhance the environmental quality of stream valleys.

(b)

A preliminary plan of subdivision (minor or major) shall not be approved until evidence is submitted that a stormwater management concept has been approved by DPIE or the municipality having approval authority, if the municipality has approval authority. Submittal materials shall include evidence that the applicable site development concept has been approved.

(c)

Regulated stream buffers in Environmental Strategy Areas shall comply with the requirements in Table 24-4303(c): **Regulated Stream Buffers in Environmental Strategy Areas (TABLE SLIDE 9)**.

(d)

To ensure the purpose and intent of this Section is advanced, a proposed subdivision (minor or major) shall comply with the following:

- (5) Where land is located outside the Chesapeake Bay Critical Area Overlay (CBCAO) zones, the preliminary plan of subdivision (minor or major) and **all plans associated with the application shall demonstrate the preservation and/or restoration of regulated environmental features in a natural state, to the fullest extent possible**, consistent with the Environmental Technical Manual established in accordance with Subtitle 25: Trees and Vegetation, of the County Code. Any lot with an impact shall demonstrate sufficient net lot area where a net lot area is required in accordance with Subtitle 27: Zoning Ordinance, of the County Code, for the reasonable development of the lot outside the regulated feature.



# Summary

## Stream Buffer Requirements



Proposed stream buffer widths of 75-feet in all TOD Centers and 100-feet in the remainder of the county.



The stream buffer requirements for delineation of (and proposed impacts to) Regulated Environmental Features (REF) and Primary Management Area (PMA) AND preservation and planting of woodland for the new Forest Conservation Act (FCA) forested riparian buffer will be combined into one set of stream buffers for both purposes.



Preservation and/ or restoration of Regulated Environmental Features (REF) features will be required for all projects either with an associated entitlement case or with a stand-alone TCP2.



New Statement of Justification (SOJ) will be required if the stream buffer cannot be fully wooded.

Subtitle 25 Update

# Tree Canopy Cover (TCC)

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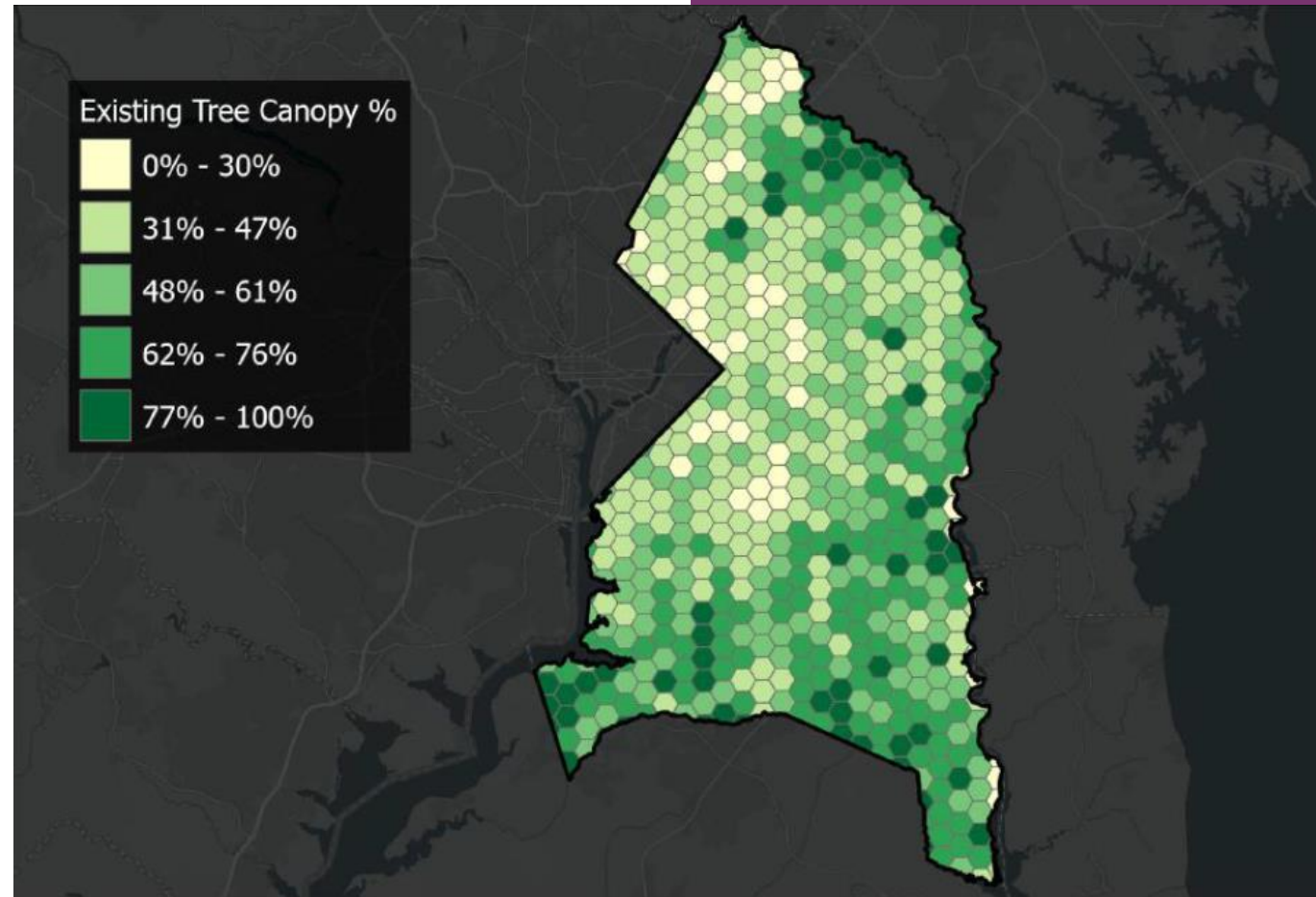


Prince George's County

# 2023 Tree Canopy Assessment

Existing tree canopy percentage for 2020 conditions summarized using 250-hectare hexagons. For each of the hexagons, the percent tree canopy was calculated by dividing the amount of tree canopy by the land area, which excludes water.

Using hexagons as the unit of analysis provides a standard mechanism for visualizing the distribution of tree canopy without the constraints of other geographies that have unequal area (e.g., zip codes).



Prepared by  
The University of Vermont

Prepared for  
Prince George's County Planning Department

November 2023

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# Tree Canopy Applicability



## a) General

1. Building and grading permits that propose **2,500 square feet** or greater of gross floor area or disturbance shall be in compliance with this Division, except as provided in Section 25-127(b).
2. A Standard or Numbered Letter of Exemption from Division 2 of this Subtitle does not exempt the property from this Division.
3. Any exemption from a provision of the Prince George's County Landscape Manual, per Section 1.1 Applicability, shall not be construed as an exemption from this Division.

## b) Exemptions

1. The following are exempt from this Division:
  - i. Agricultural activities and agricultural support buildings.
  - ii. Properties located in the Chesapeake Bay Critical Area Overlay Zones unless a permit is submitted in conformance with Section 5B-116(a)(2).
  - iii. The environmental setting of a Historic Site.
  - iv. Temporary uses listed in the Zoning Ordinance.



# Tree Canopy Coverage Requirements



- a) Tree canopy requirements shall be met unless a waiver has been granted pursuant to Section 25-130.
- b) All activities that are subject to this Division shall provide the tree canopy percentages listed in Table 1. Tree canopy coverage requirements are based on the net tract area and must be met within the net tract area.

Table 1. Tree Canopy Requirements by Zone	
Zone	Minimum Tree Canopy Coverage
ROS, AG, AR	Exempt
RE	<del>20%</del> <u>25%</u>
RR, RSF-95, RSF-65, RSF-A, RMF-12, RMF-20, RMF-48, RMH, R-PD	<del>45%</del> <u>20%</u>
CGO, CS, IH, IE, IE-PD, CN, NAC, TAC, LTO, RTO-L, RTO-H, NAC-PD, TAC-PD, LTO-PD, RTO-PD, MU-PD	<del>40%</del> <u>15%</u>
LCD, <del>LMXT</del> <u>LMXC</u> , LMUTC	Thresholds shall be as specified by CB-27-2010 for the prior zoning of the property (before its designation as a legacy zone)

# Summary

Tree Canopy Cover Ordinance ● Subtitle 25, Division 3



Applicability change from projects proposing 5,000 SF to 2,500 SF of gross floor area or disturbance.



Reducing the list of exemptions.



Changing calculations from gross tract to net tract and requiring the canopy to be met on the net tract.



Increasing the minimum percent coverage.



Subtitle 25 Update

# Thresholds and Replacement Requirements

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# Thresholds and Replacement Requirements



**Proposed  
Definition in  
Subtitle 25**

**Transit-oriented  
centers:**

That transit-oriented development which is consistent with the Maryland 7-101 of the Transportation Article, and is identified within Plan 2035. This does not include those areas identified as Local Town Centers in Plan 2035.

Table 2. Woodland Conservation Replacement Requirements	
Location of Woodland Clearing	Woodland Replacement Requirement (acres)
Clearing inside transit-oriented centers	¼:1 one-acre woodland replacement required for each acre cleared
Clearing outside transit-oriented centers	1:1 one-acre woodland replacement required for each acre
Clearing for Government or linear project	1:1 one-acre woodland replacement required for each acre cleared



# Woodland Conservation and Afforestation Thresholds Requirements

Table 1. Woodland Conservation and Afforestation Thresholds Requirements by Zone		
Zone	Woodland Conservation Requirements	
	Conservation Threshold	Afforestation Threshold
ROS, AG, AR	50%	20%
RE	25%	20%
RR, RSD-95, RSF-65, RSF-A, RMF-12, RMF-20, RMF-48, RMH, R-PD	20%	15%
CGO, CS, IH, IE, IE-PD, CN, TAC, TAC-PD, LTO-PD, RTO-PD, MU-PD	15%	15%
<ul style="list-style-type: none"><li>• <b><u>Transit-Oriented Center Base Zones</u></b><ul style="list-style-type: none"><li>◦ <u>LTO, RTO-L, RTO-H, NAC</u></li></ul></li><li>• <b><u>Transit-Oriented Centers Planned Development Zones</u></b><ul style="list-style-type: none"><li>◦ <u>NAC-PD, LTO-PD, RTO-PD</u></li></ul></li></ul>	<u>15%</u>	<u>15%</u>
LCD, LMUTC	Thresholds shall remain the same as shown on a TCP approved with a Basic Plan, Conceptual Design Plan, Specific Design Plan, Conceptual Site Plan, Detailed Site Plan, Special Permit, or Preliminary Plan of Subdivision, which was approved prior to April 1, 2022 and is in conformance with Subtitle 27 of the County Code. If no previously approved TCP exists, the thresholds shall be based on CB-27-2010 or the thresholds required by the Zoning Map Amendment which established the legacy zone.	



							Current	Proposed (Per State)	Proposed
TCP2	TOD	ESA	Gross Tract Area	100-year FP	Net Tract Area	Existing Woodland (NT)	Current Requirement	Woodland Cleared (1:1)	ACT/WCT + Woodland Replacement
TCP2-032-2021	No	3	68.79	2.35	66.44	50.35	17.66	30.78	15%/9.97 9.97 + 30.78= 40.05
TCP2-029-2016	No	2	1.86	0	1.86	.47	0.38	0.02	20%/0.37 0.02+0.37+ 0.39
TCP2-018-2021`	No	2	19.11	2.29	16.82	3.03	2.91	0.55	20%/3.46 3.46 +0.55= 4.00
TCP2-114-04	No	2	29.31	1.95	27.36	23.17	13.33	21.14	20%/5.47 5.47+21.14= 26.61
TCP2-015-2021	No	2	1.55	0.13	1.42	1.42	.36	0.44	20%/0.28 0.28+.44= 0.72
TCP1-013`2020	No	2	80.92	47.49	33.43	3.28	5.20	0.19	25%/8.36 8.36+0.19= 8.55
TCP2-019-2021	No	2	63.66	2.27	61.39	19.97	18.39	13.48	25%/15.34 15.34+131.48= 28.82
TCP2-009-2021	No	2	14.00	0.00	14.00	6.48	2.10	0.00	25%/3.50 3.5+0.00= 3.50
TCP2-025-2022 NRI-186-2021	Yes	1	3.72	0.01	3.71	0.00	0.56	0.00	15%/0.56 0.56 + 0.00f= 0.56
TCP2-030-2021	Yes	1	2.42	0	2.42	0.00	0.36	0.00	15%/0.36 0.36+0.00+ 0.36
TCP2-013-2019	Yes	1	2.98	0.23	298	0.00	0.45	0.00	15%/0.45 0.46 + 0.00= 0.46
TCP2-029-2021	No	1	1.99	0.07	1.92	1.27	1.00	1.15	1.44
TCP2-012-2020	No	1	2.02	0	2.02	1.40	1.21	1.40	22.4%/0.49 o.49 + 1.40= 1.89

# Summary of Thresholds and Replacement Requirements



Government projects replacement requirement of 1:1 is not changing.



Option for government projects to follow the development application process is being removed.



Development application replacement requirements are proposed to be ¼:1 in Transit-Oriented Centers and 1:1 everywhere else.



Subtitle 25 Update

# Alternative Credits and Woodland Conservation Banking

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# Summary of Alternative Credits



Proposing the use of street trees and landscape credit in TOD Centers only.



The state's new language regarding habitat restoration is covered under existing local provision for habitat enhancement (updated to allow for 0.5:1 acre credit).



The state's new language regarding planted storm water management areas is not proposed to be included locally.



# New State FCA Definitions in 2021

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Maryland Forest Conservation Act  
**HB911**  
TREE SOLUTIONS NOW  
ACT OF 2021



## 5-1601. Definitions

**(O) Forest Mitigation Banking**  
the intentional restoration, creation or qualified conservation of forests undertaken expressly for the purpose of providing credits for afforestation or reforestation requirements with enhanced environmental benefits from future activities.

**(GG) Qualified Conservation**  
The conservation of all or part of an existing forest that:

- 1) was approved on or before December 31, 2020, for the purpose of establishing a forest mitigation bank; and
- 2) is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.



SB 526 / HB 723

# Natural Resources

## Qualified Conservation



The Forest Conservation Act was amended during the 2023 Legislative session “For the purpose of altering the definition of “qualified conservation” for purposes of provisions of law related to forest mitigation banks; altering rules for the use of qualified conservation to meet afforestation or reforestation requirements”

- **5-1601**

a) In this subtitle, the following words have the meanings indicated.

(gg) “Qualified conservation” means the conservation of all or a part of an existing forest that:

- 1) Has been approved by the appropriate State or local forest conservation program for the purpose of establishing a forest mitigation bank;
- 2) Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.

Preservation banking was reinstated for Woodland Conservation Credits, however preservation credits are limited to 50 percent of a developing project’s replacement requirement for projects approved after July 1, 2024. The remainder will need to be satisfied through afforestation/reforestation or other means.





SB 526 / HB 723

# Forest Mitigation Banking Priority Retention Areas

**§5–1610.1 - Takes effect July 1, 2024 per chapters 541 and 542 of 2023**

- a) The Department shall develop standards and adopt regulations for the creation and use of forest mitigation banks, including criteria for tracking, crediting, maintaining, bonding, and reporting mitigation bank activities.
  
- b) A local jurisdiction may develop procedures for establishing forest mitigation banks as part of its forest conservation program.
  
- c) After December 31, 2020, mitigation banks may be allowed only:
  - 1) If the application was submitted before December 31, 2020; or
  - 2) When using:
    - i. Qualified conservation located in priority retention areas as identified in § 5–1607(c) of this subtitle; or
    - ii. Newly planted forest located in priority afforestation or reforestation areas as identified in § 5–1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.



SB 526 / HB 723

# Forest Mitigation Banking

## Forest Mitigation Banking Options

### § 5-1607(b) (2)

The use of qualified conservation completed in a forest mitigation bank to meet:

- i. Up to 50% of the afforestation or reforestation requirement, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity; or
- ii. If, a local jurisdiction proposes, and after public comment, the Department approves a written justification for the increase, up to 60% of the afforestation or reforestation requirement, in which case the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity.



# Summary of Woodland Conservation Banking



Existing banks approved prior to December 31, 2020, remain and can operate as-is with no sunset.



New banks:

- Retention must meet the "Qualified Conservation" criteria outlined by the state (priority retention area).
- Afforestation must meet the criteria outlined by the state (priority planting area).
- Once established - banks will follow our current process (or something similar).



Proposing to allow the banking program to include the allowance of 60% of the afforestation/ reforestation requirement in retention.

Subtitle 25 Update

# Exemptions

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## From the State

- Agricultural uses such as orchards and tree farms are exempt
- Energy generating stations; the land is not exempt, but the rights-of-way are exempt
- Stream restoration and stormwater management maintenance will be exempt if the projects meet the mitigation criteria
- Forest management activities in accordance with a forest stewardship plan prepared by a licensed forester are exempt
- New Federal buildings meeting certain criteria are exempt
- Certain Transit Oriented Development (TOD) and multifamily projects will have specific woodland conservation mitigation requirements in keeping with the state's "exemption" but will be incorporated into the woodland conservation requirement calculations on a tree conservation plan

# Summary of Exemptions



## Local changes only

- The validity period of exemption letters is proposed to change from two years to five years
- Standard Exemptions
  - Minor revision to standard woodland conservation exemptions by removing the criteria for exemptions based on a site containing less than 10,000 sf of woodland – and therefore requiring afforestation on these sites
- Numbered Exemptions
  - Very minor revisions for current zoning categories for numbered woodland exemptions



Subtitle 25 Update

# Public Notice and Comments/Judicial Review

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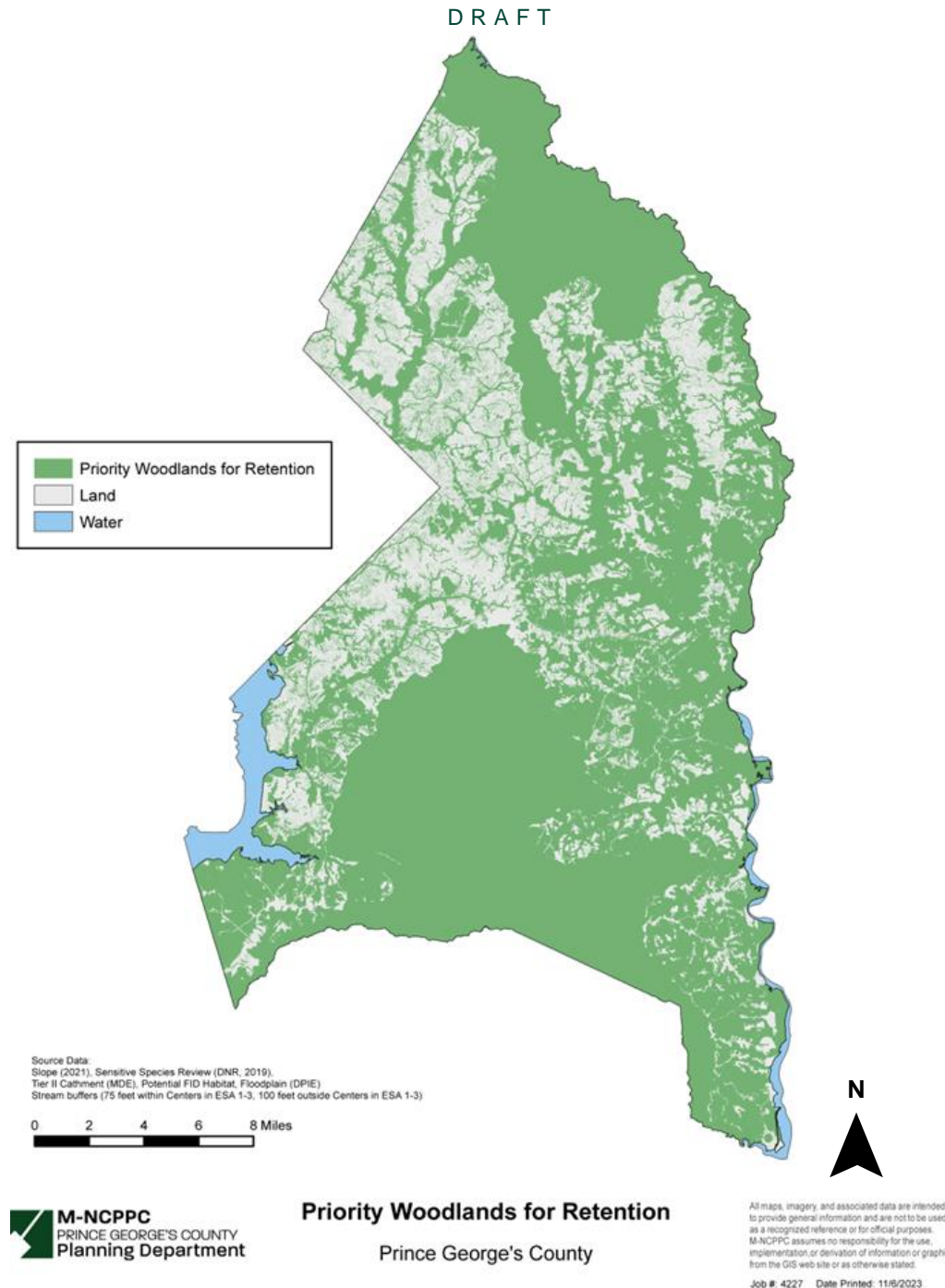
# Notice

## 5-1605(d)

- 1) At least 20 days before approval of the forest conservation plan, the department or local authority shall:
  - I. Provide notice that is consistent with local authority notice requirements to all property owners abutting and adjacent to the boundary of the subject property of any proposed clearing of a priority retention area as described in § 5-1607(c) of this subtitle; and
  - II.
    1. On a net tract area of at least 5 acres and if at least 75% of the priority retention area is proposed to be cleared, provide an opportunity for written and verbal comment before plan approval; or
    2. For any other project where priority retention area is proposed for clearing, provide an opportunity for public written comment before plan approval.
- 2) Property separated from the subject property by a public right-of-way shall be considered abutting and adjacent.

5 - 1 6 0 7 ( c )

# Priority Retention Areas



## The following is a summary of the elements that comprise priority retention areas:

- 100-year floodplains
- Streams and their buffers
- Steep slopes
- Critical habitat
- Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site
- Forest Interior Dwelling Species (FIDs) habitat
- Forest located in Tier II and III watersheds (Tier III N/A)
- Water resource protection zones, reservoir or wellhead protection areas (N/A)
- Forests in urban areas (TBD by DNR)
- Sensitive species project review areas (rare, threatened, and endangered species habitat)
- Trees that are part of a historic setting
- Specimen and champion trees



# Notice Requirement for ALL Tree Conservation Plans (TCPs)



Preliminary priority forest area covers a majority of the county



All parameters of priority forest have not yet been defined or mapped by the state

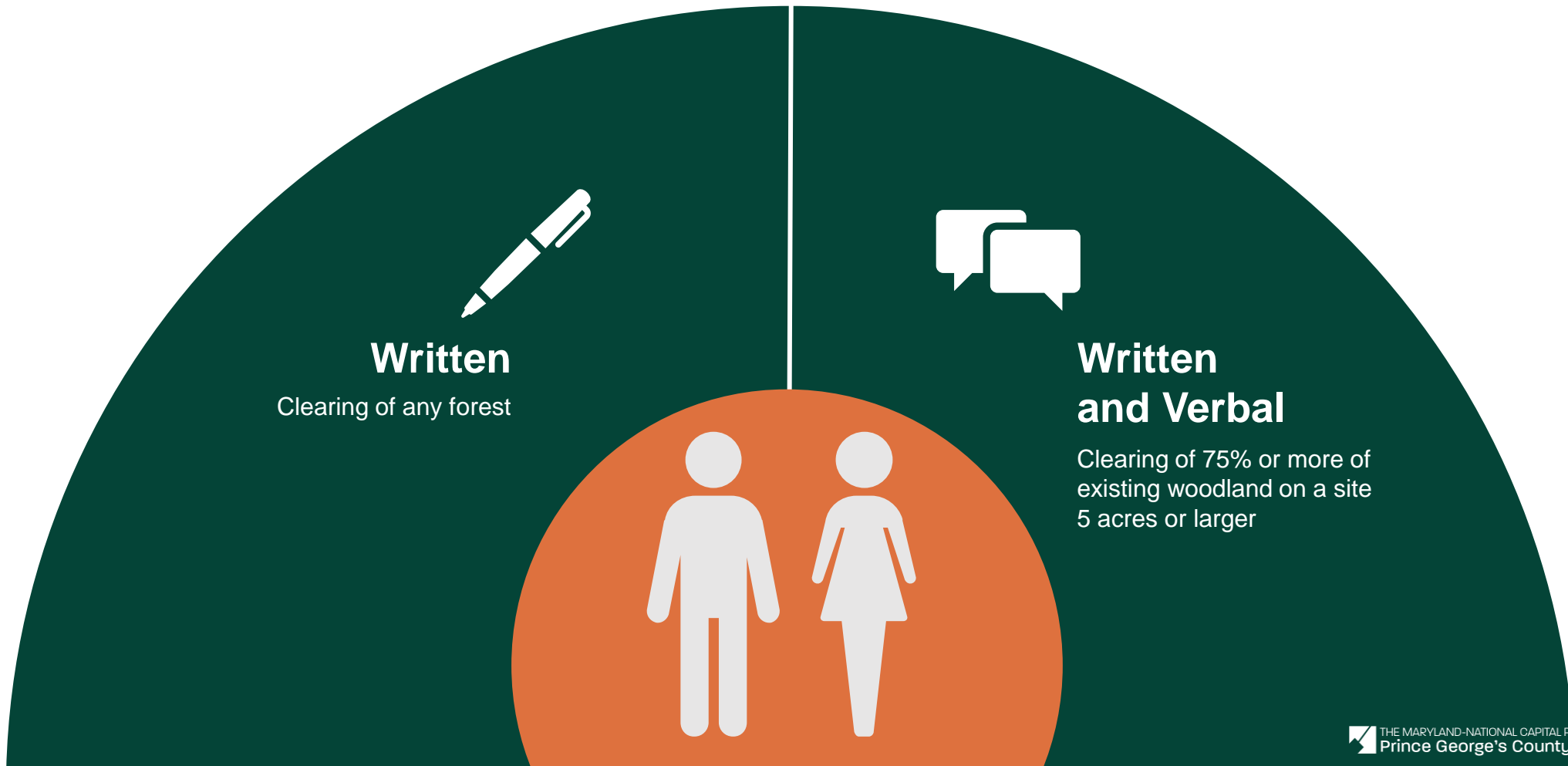


Streamlining



Transparency

# Public Comments





# Judicial Review

## 5-1605(d)

4)

- I. A person petitioning for judicial review of an approved forest conservation plan shall file the petition in accordance with the Maryland rules not later than 30 days after approval of the forest conservation plan.
- II. Any judicial review of a forest conservation plan shall be:
  1. Conducted in accordance with the Maryland rules; and
  2. Limited to the record compiled by the department or the local authority.

# Summary of Public Notice and Comments / Judicial Review



Public Notice will be required for all TCPs and must outline the type of public comments accepted for the case

- Written comments for all TCPs
- Written and verbal comments for clearing of 75% or more of existing woodland on a site 5 acres or larger



Judicial Review

- Limited to the record
- Parties have 30-days to file



Subtitle 25 Update

# **Written Findings and Statements of Justification**

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# Statements of Justification (SOJs)



## Existing SOJs

- Variances must meet required findings of 25-119(d)
- Impacts to Regulated Environmental Features for Development Review cases per the ETM
- Priority of preservation and planting on-site [Sec. 25-122(b)]
- Off-site woodland conservation credits within watershed hierarchy (at time of permit) per Section 25-122(a)(6)



## Newly Required SOJs

- Impacts to (newly defined) stream buffers
- Impacts to Regulated Environmental Features for all TCPs
- Clearing of priority retention area
- Impacts to the critical root zones of specimen trees
- The new Landscape Manual requires information on removal of specimen trees for sites otherwise exempt from Subtitle 25, Division 2



Subtitle 25 Update

# Grandfathering



Subtitle 25 Update

# Updates to the Woodland Conservation Ordinance

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- ✓ CB-73-1989
- ✓ CB-106-1992
- ✓ CB-51-2004
- ✓ CB-27-2010
- ✓ CB-32-2011
- ✓ CB-87-2013
- ✓ CB-99-2021 (ZOSR)
- ✓ Current Update  
(effective July 1, 2024)

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# Grandfathering Provisions



Plans approved prior to  
September 12, 2010  
expire July 1, 2024



Plans approved  
between  
September 12, 2010  
and July 1, 2024 will  
be grandfathered with  
a transition time (until  
July 1, 2028)



Subtitle 25 Update

# Minor and Major Revisions

**Minor Tree Conservation Plan Revisions are those activities which do not result in a substantial change to the approved TCP. The following are Minor Revisions:**

- A proposed reduction in woodland conservation that does not exceed the greater of 5,000 square feet or 5% in the area of woodland conservation originally approved.
- A proposed change in the location or type of woodland conservation that does not exceed the greater of 10,000 square feet or 10% of the area of woodland conservation originally approved.
- Proposed changes or reductions in woodland conservation, regardless of size, resulting from governmental requirements which are mandated due to public safety, health or welfare.
- Specimen trees specifically identified for preservation will not be adversely impacted.
- No variance is required.
- The proposed revision continues to meet all required elements of the Woodland and Wildlife Habitat Conservation Ordinance.
- Other revisions that the Planning Director or the Director's designee determines to be minor.

**Major Tree Conservation Plan Revisions will be treated as wholly new Tree Conservation Plans.**



# Grandfathering

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TCPs approved prior to September 12, 2010 that have not been implemented are expired as of the effective date of this legislation



Grandfathering for TCPs approved between 2010 and 2024

- for a proposed transition time (until July 1, 2028) and
- unless and until a “major” revision is approved



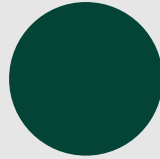
Subtitle 25 Update

# Next Steps





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# Q&A

