

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2024 Legislative Session

Bill No. CB-020-2024

Chapter No. _____

Proposed and Presented by The Chair (by request – Planning Board)

Introduced by Council Members Harrison, Watson, Olson, Fisher, Hawkins,
Dernoga and Oriadha

Co-Sponsors _____

Date of Introduction April 2, 2024

BILL

1 AN ACT concerning

2 Woodland and Wildlife Habitat Conservation Ordinance

3 For the purpose of revising the existing subtitle in order to comply with state mandated revisions
 4 as per the Maryland Forest Conservation Act; revising and adding definitions; revising
 5 applicability and exemption requirements; revising plan review, validity and grandfathering
 6 requirements; revising a certain definition; providing for a certain fee-in-lieu; establishing a certain
 7 Fund; revising the variance and appeal process; revising enforcement process; revising the
 8 conservation requirements including priority areas, thresholds and replacement ratios; revising
 9 conservation requirements design criteria, priorities, options and bonding; revising forest stand
 10 delineation area; and revising forest harvesting.

11 BY repealing and reenacting with amendments:

12 SUBTITLE 25. TREES AND VEGETATION.

13 Sections 25-117, 25-118, 25-119, 25-120, 25-121, 25-
 14 122, 25-123, and 25-124,

15 The Prince George's County Code

16 [(2019 Edition; 2020 Supplement)] (2023 Edition).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 18 Maryland, that Sections 25-117, 25-118, 25-119, 25-120, 25-121, 25-122, 25-123, and 25-124 of
 19 the Prince George's County Code be and the same are hereby repealed and reenacted with the
 20 following amendments:

SUBTITLE 25. TREES AND VEGETATION.
DIVISION 2. WOODLAND AND WILDLIFE HABITAT CONSERVATION
ORDINANCE.

Sec. 25-117. Policy; Purpose.

(a) Policy.

(1) It is the policy of the Prince George's County government to conserve and protect trees, woodlands, and wildlife habitat by requiring site planning techniques and construction practices [which] that prevent adverse effects on these sensitive environmental features. These efforts shall be coordinated with the implementation of the Prince George's County approved General Plan, the approved Countywide Green Infrastructure Plan, and the regulations regarding sensitive environmental features in the County Code.

(2) To implement this policy the County has established:

(A) Policies and strategies for the conservation of trees, tree canopy, woodlands and wildlife habitat for present and future citizens of Prince George's County in the General Plan; that provides for the preservation, enhancement, and restoration of our natural and built ecosystem to improve human health, strengthen our resilience to changing climate conditions, and facilitate sustainable economic development.

* * * * *

[(E)] (G) Fines for removing trees, woodlands, or wildlife habitat without an approved Tree Conservation Plan or in violation of an approved [p] Tree Conservation Plan.

Sec. 25-118. Definitions.

(a) Definitions in [Subtitle 27 of this Code (the Zoning Ordinance)] other Subtitles of this Code shall apply to this Division except to the extent of any conflict with the definitions in this Section or the goals and purposes of this Division. [and shall be supplemented by the definitions in Subsection (b) of this Section unless otherwise noted herein.]

(b) The following terms used in this Division are defined as follows:

(1) **Abutting and adjacent property owner:** The owner of property sharing a common boundary line, including property separated by a public right-of-way, with property subject to a proposed Tree Conservation Plan (TCP).

[(1)] (2) **Activity:** Any grading, site development or forest harvest which requires a permit under Subtitle 4 of the Prince George's County Code.

[(2)] (3) **Afforestation:** The establishment of a biological community of perpetual woodlands either through the planting of trees on an area from which trees have always or very long been absent, or the planting of open areas which are not presently in forest cover.

- 1 [(3)] (4) **Afforestation threshold:** The minimum amount of afforestation or reforestation that
 2 is required where the calculation of a woodland conservation threshold is greater than the
 3 acreage of the existing woodlands on-site, unless a condition of zoning approval has set
 4 the threshold to a specific percentage other than that [is listed] established in this
 5 Division.
- 6 [(4)] (5) **Agricultural activity:** Aquaculture and farming activities including plowing, tillage,
 7 cropping, installation of best management practices, seeding, cultivating, the grazing and
 8 raising of livestock, sod production and other products cultivated as part of a recognized
 9 commercial enterprise, and harvesting for production of food and fiber products,
 10 excluding forest products. The definition includes tobacco, orchards, nursery stock,
 11 Christmas trees, aquaculture ponds, and other ponds used to conduct farming activities.
 12 Activities that result in a change to a land use other than agriculture are not agricultural
 13 activities. Structures or temporary storage areas related to sale of products are excluded
 14 from this definition.
- 15 [(5)] (6) **Agricultural support [building] structure:** A [building] structure, other than a
 16 building used for living facilities, [human residence] necessary to sustain an agricultural
 17 activity.
- 18 [(6)] (7) **Applicant:** A person or persons applying for any land development-related plans or
 19 permits, including grading and sediment and erosion control permits.
- 20 [(7)] (8) **Application:** A package submitted for review under this Division [or Subtitles 4, 24
 21 or 27 of the County Code].
- 22 [(8)] (9) **Approving authority:** The body that is responsible for approval of the application,
 23 in conformance with this Division and other applicable sections of County Code.
- 24 [(9)] (10) **Associated plan or application:** The application that generates the need for a TCP
 25 [Tree Conservation Plan] or Letter of Exemption.
- 26 [(10)] (11) **Caliper:** The diameter of a tree measured at two inches above the root collar.
- 27 [(11) **Certified Arborist** is an arborist certified by the International Society of Arboriculture or
 28 other similarly recognized certification program.]
- 29 (12) **Champion tree:** The largest tree of its species within the United States, the State of
 30 Maryland, County, or municipality.
- 31 (13) **Clearing:** The removal of any components which comprise a biological community of
 32 woodlands as allowed herein.
- 33 (14) **Conservation area:** See "woodland [and wildlife habitat] conservation area".
- 34 (15) **Conservation easement:** [A recorded easement established for the protection of

woodland and wildlife habitat used to meet the requirements of Subtitle 25-117, Division 2 or for the protection of sensitive environmental features. Conservation easements shall contain the Primary Management Area and may contain other sensitive environmental features as determined by the Planning Board.] See Subtitle 24 of the County Code.

(16) Conservation easement, woodland and wildlife habitat: See Subtitle 24 of the County Code.

[(16)](17) Critical habitat: A habitat currently occupied by a rare, threatened, or endangered (RTE) species as determined by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

[(17)](18) Critical habitat area: The critical habitat of a rare, threatened or 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 by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

[(18)](19) Declaration of Intent: A signed and notarized statement by a [landowner]property owner or the [landowner's] property owner's agent as required by this Division certifying that the forest harvesting activities on the [landowner's] property owner's property:

- (A) Are exempt under this Division;
- (B) Do not circumvent the requirements of this Division or Natural Resources Article, §§ 5-103 and 5-1601—5-1612, Annotated Code of Maryland; and
- (C) Do not conflict with the purposes of any other Declaration of Intent.

[(19)](20) Destruction of woodland: Any activity that significantly decreases the health or viability of woody vegetation, including individual trees, in an on-site woodland area. Destruction of woodlands includes, but is not limited to severe pruning, cutting, girdling, root mat disturbance, understory clearing or chemical/biological poisoning. Destruction of woodlands does not include control or removal of exotic, invasive or noxious plant species, removal of dead, dying or hazardous trees and/or forest management conducted in conformance with an approved forest management plan.

(21) Development: Any activity that materially affects the condition or use of dry land, land under water, or any structure.

(22) Development Review Division application (DRD application): For the purposes of this subtitle, development review division application is the application submitted to the Development Review Division. It does not include a grading permit application

submitted to the Department of Permits, Inspections and Enforcement and applications subject to Mandatory Referral.

[(20)](23) **Diameter at breast height (DBH):** The diameter of a tree measured at 4.5 feet above the ground.

[(21)] (24) **Disturbance:** The movement or removal of soil, impervious surfaces, or vegetation and/or leaf litter.

[(22)](25) **Erosion and sediment control plan:** A signed and stamped plan approved by the Soil Conservation District.

[(23)](26) **Environmental Technical Manual (Technical Manual):** A technical manual, as approved and amended by the Planning Board from time to time, that contains the requirements for submissions for conformance with the environmental regulations of the County Code. The manual includes a chapter titled Woodland and Wildlife Habitat Conservation Technical Manual that establishes standards for the implementation of this Division.

[(24)](27) **Exotic plants:** Plants that are not native to the mid-Atlantic region but have been introduced to this region and may displace native species, changing the structure and composition of native plant communities.

(28) **Fee-in-lieu:** Funds received by the County associated with compliance with this Division.

[(25)](29) **Forest:** See "Woodland."

(30) **Forest conservation:** See "Woodland conservation."

(31) **Forest Conservation Act:** MD Code, Natural Resources, Title 5, Subtitle 16, et seq.

(32) **Forest conservation plan:** See "Tree Conservation Plan."

(33) **Forest Conservation Program:** See "Woodland Conservation Program".

[(26)](34) **Forest cover:** See "Woodland."

(35) **Forest edge:** See the Technical Manual.

[(27)](36) **Forest harvesting:** A tree-cutting operation affecting one or more acres of forest [or developed woodland] within a one-year interval that disturbs 5,000 square feet or more of forest floor. Forest harvesting does not include grubbing and clearing of root mass. Forest harvesting is also known as "timber harvesting".

[(27.1)](37) **Forest harvest plan:** A plan drawn to scale showing the regulated environmental features, the areas to be harvested, staging areas, proposed stream crossings, and the forest harvesting methods proposed for each area to be harvested.

[(28)](38) **Forest interior:** Woodlands that are located a minimum of 300 feet from the

nearest forest edge.

[(29)](39) **Forest interior dwelling species (FIDS):** Species of birds which require large, connected forested tracts in order to breed successfully as described in the Technical Manual.

[(30)](40) **Forest interior dwelling species (FIDS) habitat:** Woodland areas of sufficient size as to be favorable to the breeding of forest interior dwelling bird species which are assumed to be present if the majority of the forest is dominated by pole-sized or larger trees (five inches or greater diameter at breast height), or has a closed canopy; and meets one the following conditions:

(A) The woodlands are a minimum of 50 acres in size and contain at least 10 acres of "forest interior" habitat which is located more than 300 feet from the nearest forest edge; or

(B) Riparian forests at least 50 acres in size with a minimum average width of 300 feet within the watershed of a regulated stream.

[(31)](41) **Forest management activity:** Activities such as the harvesting of forest products, thinning, wildlife habitat management, and watershed protection as identified on [an approved] a Forest Management Plan as prepared by a licensed forester.

[(32)](42) **Forest Management Plan:** A plan signed and sealed by a [Licensed Professional Forester] licensed forester that establishes best conservation and management practices for a [landowner] property owner in assessment of the resource values of forested properties. A Forest Management Plan shall be prepared [and approved] in conformance with the [Environmental] Technical Manual and shall outline forest management activities needed to meet the stated objectives for a minimum of [four] ten years. May also be referred to as a Forest Stewardship Plan.

[(33)](43) **Forest products:** Trees removed from a site using selective or clear-cutting methods for commercial use. Forest products do not include mushrooms, nuts, berries or similar items.

[(34)](44) **Forest Stand Delineation (FSD):** A detailed accounting of existing woody vegetation on a site, prepared in plan and document form, as required by this Division, and as explained in the Technical Manual.

[(35)](45) **Government project:** Projects conducted by or for any public or quasi-public agency. A project is deemed a government project if all or a portion of the funding comes from governmental sources.

(46) **Green infrastructure:** The interconnected natural areas benefiting wildlife and humans,

as designated on the Green Infrastructure Network Map, as defined further in the approved Countywide Green Infrastructure Plan. Green infrastructure may also refer to green stormwater solutions that use plants or mimic natural systems.

[(36)](47) **Hazardous tree:** Any tree where a hazardous condition is present which would lead a knowledgeable person trained in the field of arboriculture to believe that the specific condition could result in the tree or a portion of the tree falling and striking a structure or activity area (target), thus threatening property damage and/or personal injury.

[(37)](48) **Habitat enhancement:** The removal of exotic or invasive species and/or the planting of native plants to improve the quality of the vegetation within an area designated for woodland conservation.

[(38)](49) **Historic tree:** A tree that is 2 inches DBH [part of a historic site,] located within the environmental setting of a historic site or historic resource that is included in the County's Master Plan for Historic Preservation, or that is associated with a historic cemetery or historic structure not included in the master plan. [or associated with a historic structure.]

[(39)](50) **Invasive non-native vegetation:** See "invasive species".

[(40)](51) **Invasive species:** A plant as identified in the Technical Manual or authoritative related sources that shows a tremendous capacity for reproduction and distribution which results in a negative impact on native plant species or environmental, economic, or public welfare priorities.

[(41)](52) **Landscaping:** The installation of trees and shrubs in an area that is formally maintained over time. Landscaped areas that are not planted to meet the minimum stocking levels or design criteria required by this subtitle are not considered afforestation areas.

[(42)](53) **Letter of Exemption:** A letter prepared based on required information to verify that the site or the proposed activity is exempt from this Division.

[(43)](54) **Licensed forester:** An individual who is licensed by the Maryland State Board of Foresters to practice forestry[, as defined in Business Occupations and Professions, §§ 7-101—7-602, Annotated Code of Maryland].

[(44)](55) **Linear project:** A project whose configuration is elongated with nearly parallel sides and is used to transport a utility product or public service not [otherwise] contained in a[n] DRD application, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined project

boundaries, or established easement rights.

[(45)](56) **Logging:** See "forest harvesting."

[(46)](57) **Maintenance agreement:** The short-term management agreement associated with afforestation or reforestation plans required under this Division and the Natural Resources Article, [§ 5-1605,] Annotated Code of Maryland.

[(47)](58) **Mitigation:** The off-setting of forest [values] lost due to the destruction of woodlands without a permit or contrary to an approved TCP [tree conservation plan] by replanting woodlands or other means in conformance with this Division.

[(59)] **Licensed Tree Expert:** A tree expert licensed by the Maryland Department of Natural Resources.

[(48)](60) **Municipal tree planting plan or program:** A plan or program prepared and adopted by a municipality for tree planting, [and/or] tree preservation, or both within the jurisdiction.

[(49)](61) **Native plant species:** Plants that are native to the Mid-Atlantic region, as identified in the Technical Manual.

[(50)](62) **Natural regeneration:** The establishment or re-establishment of a biological community of woodlands from nearby seed sources without afforestation with at least 400 free-to-grow woody native seedlings per acre that are capable of reaching a height of at least 20 feet at maturity.

[(51)](63) **Natural Resource Inventory (NRI):** A plan map and supporting documentation that provides all required information regarding the existing physical, cultural and environmental conditions on a site that is approved by the Planning Director [or designee] as described in the [document the Environmental] Technical Manual, [as approved and amended by the Planning Board from time to time.]

[(52)](64) **Net tract area:** For the purposes of this Division, the gross tract area minus the approved 100-year floodplain and minus any areas previously dedicated for public use.

[(53)](65) **Off-site:** Land that is not part of the subject application.

[(54)](66) **Off-site clearing:** Clearing related to the subject application that occurs outside the limits of the subject application

[(55)](67) **Off-site woodland conservation:** The fulfillment of any portion of the conservation requirement for a property at an off-site location.

[(56)](68) **One hundred (100) year floodplain:** See Subtitle 32 of the County Code. [A delineation of the one-hundred year floodplain in conformance with Subtitle 27 of this Code.]

- 1 [(57)](69) **On-site:** On the same lot or parcel or combination of lots and parcels as identified
 2 in the subject application.
- 3 [(58)](70) **Permittee:** Any person to whom a permit is issued pursuant to this Division.
- 4 [(59)](71) **Planning Director:** The director of the Prince George's County Planning
 5 Department of the Maryland-National Capital Park and Planning Commission or the
 6 Director's designee.
- 7 [(60)](72) **Preservation:** The protection of existing woodlands for the purpose of meeting the
 8 requirements of this Division.
- 9 [(61)](73) **Previously dedicated land:** Land that was dedicated for [some other] public use
 10 prior to submission of the first TCP [tree conservation plan] application. This term
 11 typically applies to road dedications.
- 12 (74) **Primary Management Area (PMA):** See Subtitle 24 of the County Code.
- 13 [(61.1)](75) **Priority Funding Area:** The Priority Funding Areas of Prince George's County
 14 as determined by the Maryland Department of Planning [per § 5-7B-02].
- 15 (76) **Qualified conservation:** the conservation of all or part of an existing forest that:
 16 (A) Has been approved by the appropriate State or local forest conservation program for
 17 the purpose of establishing off-site woodland conservation; and
 18 (B) Is encumbered in perpetuity by a restrictive easement, covenant, or other similar
 19 mechanism recorded in the County land records to conserve its character as
 20 woodlands.
- 21 [(62)](77) **Qualified professional:** A licensed forester, a licensed landscape architect, or other
 22 qualified professional approved by the State of Maryland Department of Natural
 23 Resources [who has not had their approved qualified professional status revoked by
 24 the State of Maryland Department of Natural Resources].
- 25 [(63)](78) **Reforestation:** The re-establishment of a biological community of perpetual
 26 woodlands through the planting of trees on an area from which trees were recently
 27 removed.
- 28 [(63.1)](79) **Regulated Environmental Features:** See Subtitle 24 of the County Code.
 29 [Regulated streams, nontidal wetlands, and their associated buffers inclusive of any
 30 Primary Management Area(s).]
- 31 (80) **Regulated stream:** See Subtitle 24 of the County Code.
- 32 [(64)](81) **Seedling:** An un-branched woody plant, less than 24 inches in height and having a
 33 caliper of less than one-half inch measured at two inches above the root collar.
- 34 (82) **Selective clearing:** The deliberate and planned removal of tree shrubs and plants using

specific standards and protection measures in accordance with an approved TCP.

(83) **Significant tree:** A tree of any species that is 24 inches or greater in diameter at 4.5 feet above the ground.

[(65)](84) **Specimen tree:** Trees having a diameter at breast height of 30 inches or more; trees having 75% or more of the diameter at breast height of the current champion of that species; or 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 champion trees designated by the United States, the State of Maryland, [and]the County, or a municipality [champion trees].

(85) **Stormwater Management Structure:** See Subtitle 32 of the County Code.

[(88)](86) **Stream:** see “Regulated stream”.

(87) **Stream buffer:** See Subtitle 24 of the County Code. Stream buffers are delineated in accordance with the Technical Manual.

(88) **Stream restoration:** 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) May be 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 stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

(89) **Transit-oriented centers:** That transit-oriented development which is consistent with the Maryland 7-101 of the Transportation Article and are identified within Plan 2035 as regional transit districts or local centers. This does not include those areas identified as Local Town Centers in Plan 2035.

[(66)](90) **Tree:** A plant with a woody stem capable of achieving a height of at least 20 feet at maturity.

[(67)](91) **Tree Conservation Plan (TCP):** A site map that delineates woodland conservation areas and associated text that [details] includes items such as requirements, penalties, [and/or] and mitigation in conformance with this Division and the [Woodland and Wildlife Habitat Conservation] Technical Manual.

[(68)](92) **Tree Management Plan:** A plan and text prepared to describe specific methods to

be implemented before, during, and after construction to ensure the preservation of designated specimen, champion, historic, or significant trees.

[(69)](93) **Tree protection devices:** Those devices that are required to be installed prior to the clearing and grading of a site for the protection of preserved areas, areas to be planted, and [/or] around specimen, champion, [or] and historic trees. These devices may be temporary or permanent as specified on the TCP. Tree protection devices for afforestation or reforestation areas may be installed after tree planting if the areas are shown to be graded.

[(70)](94) **Understory vegetation:** Plants growing in association with trees in a woodland. The understory includes the biological community of plants that includes trees, shrubs, and forbs that grow under the shaded canopy of larger trees and is a vital component of a perpetual woodland.

(95) **WCO variance (variance):** Relief from this Division as specified in Sub 25-119(d). WCO variance does not mean a zoning variance.

(96) **Watershed:** The Maryland 12-digit watershed delineation as defined by the Maryland Department of the Environment.

[(71)](97) **Whip:** An un-branched woody plant greater than 24 inches in height and having a caliper of less than one inch measured at two inches above the root collar.

[(72)](98) **Woodland:** A perpetual biological community dominated by trees and other woody or herbaceous 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 2 inches or greater in diameter at breast height. This also includes areas that have been forest harvested where the stumps remain in place for future regeneration. The terms "woodland," "forest," and "forest cover" are synonymous and do not include orchards or other areas without multiple layers of woody and herbaceous vegetation.

[(73)] **The Woodland and Wildlife Habitat Conservation Technical Manual ("The Technical Manual"):** The chapter of the Prince George's County Environmental Technical Manual, as approved and amended by the Planning Board from time to time, that establishes standards for the implementation of this Division.]

[(74)](99) **Woodland conservation area:** An area of preservation of existing woodlands, reforestation, afforestation, natural regeneration, landscaping or other approved method that has been specifically identified for protection or restoration on an approved TCP in order to satisfy the requirements of this Division.

[(75)](100) **Woodland conservation threshold [÷] :** The minimum requirement for any site

calculated as a percentage of the net tract area with the percentage based on its zoning per Subtitle 25-121. [or by a condition of zoning approval.]

[(76)](101) **Woodland conservation bank:** A lot or parcel, or portions of a lot or parcel, that has been intentionally preserved or afforested as perpetual woodlands and has been protected by the documents recorded in the land records for the purpose of meeting the requirements of this Division for land development activities occurring on another property in the [county] County.

(102) **Woodland Conservation Fund:** The County fund where fee-in-lieu funds excluding fee-in-lieu associated with the removal of Specimen and Historic Trees are held.

(103) **Woodland conservation replacement requirement[~~is~~]:** The minimum requirement for any site calculated as replacement for woodland cleared based on the criteria in Section 25-121.

[(77)](104) **Woodland retained - assumed cleared:** Existing woodlands that are not proposed to be cleared with the initial development, which are not credited to meet the requirements of this Division, and have a high likelihood of being cleared in the future. In [the determination of] determining the woodland conservation requirement, areas labeled "woodland retained - assumed cleared" are calculated as cleared. Areas labeled "woodland retained - assumed cleared" may be removed during the development process or after bond release without requiring a revision to the TCP.

[(78)](105) **Woodland retained - not credited:** Existing woodlands that are not proposed to be cleared and are not credited to meet to meet the requirements of this Division because the areas do not meet the required standards to be credited as woodland conservation. In the determination of the woodland conservation requirement, areas labeled "woodland retained - not credited" are not calculated as cleared. Areas labeled "woodland retained - not credited" on individual residential lots less than one acre in size may be removed after bond release on the project without a revision to the TCP.

[(79)](106) **Woody vegetation:** Plants with persistent stems lasting more than one year and increasing in diameter annually.

(107) **Other Terms:** Definitions in Title 5, Subtitle 16 of the Natural Resources Article of the Annotated Code of Maryland, COMAR 08.19.01.03, "Definitions," COMAR 08.19.03.01 "Forest and Tree Conservation Definitions," are incorporated by reference and shall apply to the extent such terms which are not defined in this Section or the Technical Manual.

Sec. 25-119. Applicability.

(a) General

(1) Except as provided in (b) below, this Woodland and Wildlife Habitat Conservation Division applies to:

(A) All DRD applications and grading permit applications; [pursuant to Subtitles 4 (Building Code), 24 (Subdivision Ordinance), and 27 (Zoning Ordinance), of the County Code;]

(B) All activities by a public utility;

(C) All activities of a unit of County or municipal government; and

(D) All activities delegated to the local jurisdiction by the State.

(2) DRD [A] applications shall [contain] include a Standard Letter of Exemption or the proper type of tree conservation plans (TCPs) as follows:

(A) DRD [A] applications for [a Comprehensive Design] Conceptual Site Plan, a Preliminary Plan of Subdivision, or other conceptual plans shall include a Type 1 Tree Conservation Plan (TCP1)[or a Standard Letter of Exemption].

(B) DRD [A] applications for a [Special Exception,] Detailed Site Plan (including Minor and Major Detailed Site Plans), [Specific Design Plan,] grading permit, or other similarly detailed plans shall include a Type 2 Tree Conservation Plan (TCP2) [or a Standard Letter of Exemption. If a site requires approval of a TCP2 with an associated land development application, the TCP2 shall not be reviewed independently of the associated plan].

(C) DRD applications for a Special Exception shall include:

(i) a TCP1 unless the special exception site plan will be used for grading permitting,
or

(ii) if there is an associated grading permit plan and no associated subdivision application is required, a TCP2 is required

(D) If a DRD application requires approval of a TCP1 or TCP2, the TCP shall be approved by the body with authority to approve the DRD application.

(E) If a site requires approval of a TCP2 with an associated DRD application, the TCP2 shall not be reviewed independently of the associated plan.

(3) Permit applications shall include a Letter of Exemption or the proper type of tree conservation plan (TCPs) as follows:

(A) A TCP2 that was approved as a companion to an approved DRD application, or

(B) A permit application not subject to a DRD approval, a stand-alone TCP2 approved by the Planning Director shall be required, or

- 1 (C) A permit application for a revision to an approved TCP2 where a revision to the
 2 approved DRD application is not required, a stand-alone TCP2 shall be required, or
 3 (D) A TCP1 is approved as a companion to an approved DRD application but no
 4 subsequent DRD approved is not required, a stand-alone TCP2 is required, or
 5 (E) A state level forest conservation approval, or
 6 (F) A Letter of Exemption is required.

7 [(3)](4) All plans and associated information shall be prepared in conformance with the
 8 [Environmental] Technical Manual [as approved by the Planning Board and amended by
 9 then from time to time].

10 [(4)](5) All submittals required by this Division shall be prepared by a qualified professional
 11 and shall contain a stamp or certification from the qualified professional who prepared
 12 the plans and the plans shall contain an original signature and date applied by the
 13 preparer. If there are three documented cases of plan submittals that do not meet the
 14 minimum threshold requirements for submittal in conformance with this Division and the
 15 Technical Manual within a time frame of one year, the Planning Director may
 16 recommend to the Maryland Department of Natural Resources that a qualified
 17 professional's ability to submit plans under this Division be suspended.

18 [(5)](6) All land that has an approved TCP associated with it is subject to the notice
 19 requirements as defined in Subtitle 2, Sec. 2-162.01(e) of the County Code. At time of
 20 contract signing, the seller of any land subject to a TCP shall provide the buyer with a
 21 copy of the approved plan.

22 [(6)](7) Within thirty (30) days from receipt of an application for a proposed TCP, the
 23 applicant shall be notified whether the [plan] application is complete. This deadline may
 24 be extended at the discretion of the Planning Director for [extenuating circumstances]
 25 good cause.

26 [(7)](8) A Forest Stand Delineation (FSD), Natural Resource Inventory (NRI), or a TCP may
 27 be revoked by the [Planning Board or its designee] Planning Director for good cause[,]
 28 including, but not limited to, violation of conditions of the plan, obtaining a plan approval
 29 by misrepresentation of a material fact, failing to disclose a relevant or material fact, or a
 30 material change in conditions. The [Applicants] applicant, the holder of any permit
 31 [holders] issued pursuant to approval of the TCP, and the property owner [or property
 32 owners] shall be notified of the revocation in writing. Within thirty (30) days of the date
 33 of [that]such notice [letter], a hearing before the Planning Board may be requested by the
 34 applicant[s], permit holders, or property owner[s].

1 [(8)](9) Proposed woodland conservation areas, either on-site, or off-site [as part of a woodland
 2 conservation bank], shall be free of any previous encumbrance which is not consistent
 3 with the requirements of this Division[,], including, but not limited to, easements which
 4 specifically protect woodlands for another purpose, utility easements, approved TCPs for
 5 other development, deed restrictions, and declarations [expiration] of covenants for
 6 woodland conservation banking, prior to encumbering the area to fulfill on-site woodland
 7 conservation requirements or as an off-site woodland conservation bank. Property that is
 8 subject to an agricultural preservation easement shall not be precluded from having a
 9 woodland conservation easement.

10 (b) Exemptions from this Division

11 (1) General

12 (A) All [development] DRD applications and grading permit applications for land
 13 [outside]inside of the Chesapeake Bay Critical Area [shall submit either a TCP or a
 14 Letter of Exemption].

15 [(B) Letters of Exemption cannot be issued for properties that have a previously approved
 16 and valid TCP, unless the TCP has expired.

17 (C) If an application is revised to include additional lots or parcels the exemption status
 18 shall be re-evaluated.]

19 [(D)] (B) Trimming, planting or removal of trees in the public right-of-way [does not
 20 require a Letter of Exemption; however,] which require a permit in accordance with
 21 the Maryland Roadside Tree Care Law is required.

22 [(E) When public utility projects exempted under The Maryland Forest Conservation Act
 23 are proposed as described below, they are considered exempt from this Division
 24 and a Letter of Exemption is not required. When this work occurs on a site where
 25 the affected woodlands have been used to meet a requirement of this Division, then
 26 the TCP for that site shall be revised to show the impacts and address mitigation
 27 requirements.

28 (i) The cutting or clearing of public utility rights-of-way licensed under Public
 29 Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland,
 30 [or land] for electric generating stations licensed under Public Utility Companies,
 31 §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, if:

32 (aa) Required certificates of public convenience and necessity have been
 33 issued in accordance with Natural Resources Article, § 5-1603(f),
 34 Annotated Code of Maryland; and

(bb) Cutting or clearing of the woodlands is conducted to minimize the loss of woodlands.

(ii) Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland.]

(C) An agricultural activity that does not result in a change in land use category and the construction and use of agricultural support structures built using accepted best management practices;

(D) Forest Management subject to compliance requirements in Section 25-124.

(E) Mandatory Referrals are exempt from this Division but may be subject to this Division at time of grading permit.

(2) Modified Exemptions

(A) For certain applications that have to perform some but not all requirements in this Division. These applicants can apply for the following:

(i) Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner and the activity:

(aa) Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;

(bb) May be 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;

(cc) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity; and

(dd) Requires a plan to demonstrate compliance with this subsection and tree replacement requirements in accordance with the Technical Manual.

(ii) Transit-Oriented Center projects for which the area of forest removed shall meet the woodland conservation thresholds and replacement requirements in accordance with Section 25-121 Table 1 and 2 and in accordance with the Technical Manual.

(iii) When public utility projects exempted under the Forest Conservation Act are proposed as described below, they are considered exempt from this Division and

a Letter of Exemption is not required. When this work occurs on a site where the affected woodlands have been used to meet a requirement of this Division, then the TCP for that site shall be revised to show the impacts and address woodland conservation requirements.

(aa) The cutting or clearing of public utility rights-of-way licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, for electric generating stations licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland, if:

(I) Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, § 5-1603(f), Annotated Code of Maryland; and

(II) Cutting or clearing of the woodlands is conducted to minimize the loss of woodlands.

(bb) Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utility Companies, §§ 7-207 and 7-208 or 7-205, Annotated Code of Maryland.

[(2)](3) [If required, a Standard] If a Letter of Exemption is required: [shall be issued by the Planning Director or designee prior to the submission of any land development application requiring a review for conformance with this Division.]

(A) The Planning Director shall issue it prior to the submission of any DRD application requiring a review for conformance with this Division.

[(A)] (B) Requests for Letters of Exemption shall be made by the submission of an application package to the Planning Director [or designee]. All application packages shall include an application form, a check for the appropriate fee made payable to the Maryland-National Capital Park and Planning Commission and a plan drawn to scale and signed by a professional engineer, land surveyor, landscape architect or qualified professional showing sufficient information so that a determination can be made regarding the exemption status. A Simplified FSD may be required to be submitted if the information submitted is not sufficient to make a determination regarding the exemption status of an application.

[(B)] (C) A letter either granting or denying the exemption shall be issued within 20 calendar days of acceptance of a complete application package.

[(C)] (D) Letters of Exemption are valid for [two] five years from date of issuance [and

must be submitted either as part of a land development application that would otherwise require a TCP or at the time of grading permit application]. If the associated DRD application approval or grading permit expires, the Letter of Exemption also expires.

(E) Letters of Exemption cannot be issued for properties that have a previously approved and valid TCP, unless the TCP has expired as per Section 25-119(c)(2).

(F) If an application is revised to include additional lots or parcels the exemption status shall be re-evaluated.

[(3)][4] If an activity occurs on the property covered by a Letter of Exemption that results in the exemption no longer being valid:

(A) The exemption is considered null and void and a TCP shall be required as appropriate; and[/or]

(B) [There shall be an e] Enforcement action may be taken by the County[, as appropriate].

[(4)][5] Standard Letters of Exemption

(A) A Standard Letter of Exemption shall be issued when a lot or parcel or combination of lots and parcels is less than 40,000 square feet in area.

[(B) A Standard Letter of Exemption shall be issued when a lot or parcel or combination of lots and parcels of any size has less than 10,000 square feet of woodland and is not subject to a previously approved TCP. If a lot or parcel that was determined to be exempt using this provision becomes reforested to the point where more than 10,000 square feet of woodlands exist prior to issuance of a grading permit, the exemption may be revoked by the Planning Director or designee.]

[(C)] (B) A Standard Letter of Exemption is not required to be issued when the proposed activities are within the Chesapeake Bay Critical Area because activities within the Critical Area are subject to Subtitle 5B. If a portion of a property is outside the Critical Area, that portion of the property shall be evaluated for conformance with this Division.

[(D)] (C) A Standard Letter of Exemption shall be issued for any property that will be reviewed by the State of Maryland Department of Natural Resources. These properties include, but are not limited to, land owned by the State of Maryland. A letter from the State of Maryland Department of Natural Resources stating that they are taking jurisdiction over the review of a project shall be provided with any application package. The Standard Letter of Exemption and the state approved

1 Forest Conservation Plan shall accompany all local DRD applications and grading
2 permit applications.

3 [(E)] (D) A Standard Letter of Exemption may be issued when local government projects
4 utilizing state funds are proposed and a letter from the State of Maryland
5 Department of Natural Resources is provided stating that they will be reviewing the
6 project.

7 [(F)] (E) A Standard Letter of Exemption may be issued when a proposal is submitted
8 that shows the minimum cutting or clearing of trees or woodlands necessary in
9 compliance with the requirements of 14 C.F.R. § 77.25 relating to objects affecting
10 navigable airspace, provided that the Federal Aviation Administration has
11 determined that the trees are a hazard to aviation.

12 [(G) A Standard Letter of Exemption may be issued when state funded road or highway
13 construction projects are proposed. A letter from the State of Maryland Department
14 of Natural Resources stating that they are taking jurisdiction over the review of the
15 project shall be provided with the application package.]

16 [(5)](6) A Numbered Letter of Exemption may be issued when an activity or series of
17 activities results in the cumulative disturbance of less than 5,000 square feet of woodland
18 during a five-year period on a site that otherwise would be subject to this Division. A
19 Numbered Letter of Exemption is issued so that the site can be tracked and mapped over
20 the five-year period to ensure that the cumulative disturbance is less than 5,000 square
21 feet.

22 (A) A Numbered Letter of Exemption shall not be issued for properties that are required
23 to submit a DRD application[s] as part of the [land development process] process
24 for the activity proposed.

25 (B) A Numbered Letter of Exemption may be issued for linear projects that disturb less
26 than 20,000 square feet of woodland if any of the land involved is not subject to a
27 previously approved TCP. Linear projects that disturb less than 20,000 square feet
28 of woodland are exempt and may obtain a Numbered Exemption Letter if none of
29 the associated properties are subject to a previously approved TCP.

30 [(6)](7) A Numbered Letter of Exemption may be issued when commercial logging and
31 forest harvesting operations are proposed on properties in the [Open Space (O-S),
32 Residential-Agriculture (R-A), Residential-Estate (R-E) and the Rural Residential (R-R)
33 zones] Reserved Open Space (ROS), Agricultural-Residential (AR), Residential Estate
34 (RE), and the Residential, Rural (RR) Zones provided that the paragraphs (A) and (B)

below have been addressed. If a permit other than a harvesting permit is applied for on the same portion of the property within five years of the exemption approval, a TCP shall be required and the exemption for harvesting shall be considered null and void.

(A) The Letter of Exemption application shall include an executed Declaration of Intent as provided for in Section 25-118 of this Division. The Declaration must be filed with and approved by the [county] County [Prince George's County Department of Public Works and Transportation]; and

(B) The Letter of Exemption application shall include an approved Forest Management Plan for the entire tract.

(c) Plan Review and Conformance

(1) The approval authority for TCPs is the same as that of the associated DRD application. If there is no associated DRD application, the Planning Director is the approving authority.

(A) If a TCP1 has been approved for a site, all subsequent TCP2 plans must be in conformance with the TCP1.

(i) For TCP minor revisions:

[(i)] (aa) If the TCP2 is to be approved by the Planning Board, conformance with the TCP1 shall be determined by the Planning Board.

[(ii)] (bb) If a TCP2 is to be approved by the Planning Director [or designee], it shall be in conformance with this Division and in conformance with the TCP1 as follows:

[(aa)] (I) Any proposed reduction in the total woodland conservation on the site shall not exceed the greater of 5,000 square feet or 5 percent of the area of on-site woodland conservation originally approved; [or] and

[(bb)] (II) The proposed change in the location or type of woodland conservation shall not exceed the greater of 10,000 square feet or 10% of the area of woodland conservation originally approved; [or] and

(III) Specimen, champion or historic trees specifically identified for preservation will not be adversely affected; or

[(cc) The proposed change or reduction results from governmental requirements; or

(dd) Specimen, champion or historic trees specifically identified for preservation will not be adversely affected.]

(IV) The proposed change or reduction results from governmental requirements.

[(ee)] (V) The proposed TCP2 continues to meet all required elements of this Division.

[(ff)] (VI) The TCP2 does not affect lots already sold to builders or homeowners.

(ii) For TCP major revisions:

[(iii)] (aa) If a criterion in (ii.) above cannot be met, the TCP2 shall be duly advertised and the approval authority becomes the Planning Board.

(B) If no TCP1 exists and one is not required, each TCP2 shall be in conformance with this Division. [If a permit is subject to this Division, a TCP2 shall be approved by the Planning Director or designee.]

(2) For those TCP applications that propose clearing of woodland, written notice shall be mailed to the abutting and adjacent property owners at least 20 days before the TCP is approved. The notice shall provide such property owners an opportunity to provide written comment. If the application proposes clearing 75% or more of woodland and the net tract area is five (5) acres or more, the abutting and adjacent property owners will be advised of the process for providing written and verbal comments.

[(2)] (3) Plan validity requirements are as follows:

(A) TCP1s and TCP2s expire if the associated plan expires unless a permit has been issued.

(B) Once a permit has been issued, TCP2s do not expire, and the requirements run with the land in perpetuity until an approved revision to the TCP2 is acquired.

(C) Requests to the Planning Board for extensions of previously approved DRD applications must include the associated TCP [in order] for that plan's validity period to also be extended.

(D) Plans that are grandfathered are subject to the expiration provisions of this division.

(E) An application for a TCP2 approved after July 1, 2024 shall be valid for 5 years from the date of approval.

[(3)] (4) TCPs shall be prepared in conformance with the Technical Manual.

[(4)] (5) TCPs must include the legal boundaries of all lots or parcels in their entirety unless they are government or linear in nature. For linear projects, refer to Section [25-119(F)]

25-119(f) for the requirements. For government projects, refer to
Section [25-119(E)] 25-119(e) or the requirements. TCPs shall include the same
[properties] property as the associated application, unless a previous TCP approval
covered a larger area or a larger area is warranted by supporting development on an
adjacent lot, parcel or combination of lots or parcels.

[(5)] (6) TCPs shall not be approved separately for sites that are either currently under
review for a [land development] DRD application or that require the submittal of [an] a
DRD application prior to development.

(d) Variances

(1) An applicant may request a variance from this Division as part of the review of a TCP
where owing to special features of the site or other circumstances, implementation of this
Division would result in unwarranted hardship to an applicant. [To approve a variance,
the approving authority shall find that:]

(2) An applicant shall request a variance from Sec 25-122(b)(1)(G) and (H) as part of the
review of the TCP when:

(A) Specimen trees, champion trees and trees that are part of a historic site or are
associated with a historic structure are impacted or removed; or

(B) Trees, plants, and vegetation identified on the national or state list of rare, threatened,
and endangered lists are impacted or removed.

(3) To approve a variance, the approving authority shall find that:

(A) Special conditions peculiar to the property have caused the unwarranted hardship;

(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed
by others in similar areas;

(C) Granting the variance will not confer on the applicant a special privilege that would
be denied to other applicants;

(D) The request is not based on conditions or circumstances which are the result of
actions by the applicant;

(E) The request does not arise from a condition relating to land or building use, either
permitted or nonconforming, on a neighboring property; and

(F) Granting of the variance will not adversely affect water quality.

[(2)](4) Notice of a request for a variance shall be given to the State of Maryland Department
of Natural Resources within 15 days of receipt of a request for a variance.

(3)](5) Variances shall be approved by the Planning Board, Zoning Hearing Examiner, and/or
the District Council for all TCPs [tree conservation plans] that are associated with DRD

applications heard by them. The Planning Director may approve variances for TCPs [tree conservation plans] that are not associated with DRD applications heard by the Planning Board, Zoning Hearing Examiner and/or the District Council. The Planning Director's decisions are appealable to the Planning Board.

(4)](6) Variances [granted] under this Subtitle are not considered zoning variances.

(7) Replacement for the removal of specimen or historic trees

(A) If the applicant is granted a variance to remove trees identified as a priority for retention in 25-119 (d)(5), the removal of a specimen tree or historic trees shall be subject to replacement requirements identified in the Technical Manual.

(B) The replacement requirements of a Specimen or Historic Tree shall be separate and apart from any other planting requirements. If the applicant has demonstrated that it cannot meet the replacement requirement pursuant to Section 25-119(d)(7)(A) and the Technical Manual, the applicant shall pay a fee-in-lieu into the Specimen and Historic Tree Fund based upon the tree replacement requirement determined by the diameter of the Specimen or Historic Tree(s) subject to removal.

(e) Government Projects

(1) The following types of governments projects shall be reviewed and enforced by the Maryland Department of Natural Resources: federal and state government projects, projects on federal and state-owned land, linear projects which cross multiple counties, and public utility projects including but not limited to utility projects conducted by and approved by the Washington Suburban Sanitary Commission. The County will review these types of projects only if specific written direction is provided by the State of Maryland Department of Natural Resources.

(2) The following types of government development activities shall be reviewed and enforced at the County level with notification being provided by the applicant to the Maryland Department of Natural Resources Forest Service: public school projects; [the] Maryland-National Capital Park and Planning Commission projects; County Department of Public Works and Transportation projects; County Department of Environment projects; state funded parks and recreation projects; County stormwater management projects; [utility projects conducted by and approved by the Washington Suburban Sanitary Commission;] and any other County or municipal projects. The Maryland Department of Natural Resources will review these types of projects if requested by the County or if the project has state-wide impacts on significant forest resources and the state agrees to take jurisdiction over the review.

(A) Applications for the project types listed in (2) above shall include an FSD or an approved NRI.

(B) The applications shall be in conformance with this Division.

(C) The TCP shall provide calculations as described in [The] the Technical Manual.

[(3) Government projects reviewed by the County shall meet the woodland conservation requirements described in Section 25-121(c)(1)(Table 1.) for the underlying zone unless the project is an institutional development project as defined in COMAR. For activities defined as institutional development projects the conservation threshold shall be 20% and the afforestation threshold shall be 15%. All FSDs, NRIs and TCPs shall be submitted for the entirety of the affected lots or parcels or combinations of lots or parcels.

(4) If a governmental project proposes to disturb less than 50% of the entire parcel, or is linear, the woodland conservation requirement may be met at a ratio of one acre of woodland conservation for each acre of woodland disturbed. An FSD or NRI and a TCP shall be prepared and submitted only for the area of the proposed disturbance. The woodland conservation requirement shall be met using the same priorities as listed in Section 25-121 of this Division.]

[(5)](3) Government projects that use fee-in-lieu may utilize the fee-in-lieu rates in effect at the state level at the time of plan approval.

(4) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the approved TCP limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure shall be exempt.

(f) Linear Projects

(1) Linear projects that are not otherwise exempt from this Division shall submit a TCP2 depicting the area of work and all other information required on a TCP2.

(A) Linear projects are not required to show the full boundaries of all of the affected parcels or lots.

(B) Linear projects shall submit a Simplified Forest Stand Delineation for that area of the subject properties where the project work will be performed.

(C) Linear projects that disturb less than 20,000 square feet of woodland are exempt and may obtain a Numbered Exemption Letter if none of the associated properties are subject to a previously approved TCP. If not exempt, then the linear project shall meet the requirements of this Section.

(D) Woodland conservation replacement requirement shall be provided at a ratio of one acre of woodland conservation for each acre of woodland disturbed. The requirement shall be met using the same priorities as listed in Section 25-121 of this Division.

(E) If previously approved TCPs are affected by linear projects, the TCPs shall be revised accordingly prior to approval of the permit for the associated construction.

(g) Grandfathering

- (1) TCP[s that are approved prior to the effective date of this Division] applications that are accepted for review on or before June 30, 2024 shall be grandfathered and shall be subject to the regulations in place at the time of [approval] acceptance. Plans that are grandfathered are subject to the expiration provisions of this Division.
- (2) TCPs that were approved prior to September 12, 2010 [under prior regulations that did not contain the replacement requirements (plans approved using the pre-1993 provisions), and not received an approved grading permit to date,] and do not have an approved grading permit that has been implemented with a pre-construction meeting and installation of approved tree protection devices as confirmed by the county are considered expired on the effective date of this ordinance. A new TCP shall be reviewed and approved using the [current] provisions of this Division.
- (3) TCPs that were approved on or after September 12, 2010 and before July 1, 2024 shall be grandfathered and shall be subject to the regulations in place at the time of approval. These plans will expire on July 1, 2028 if these plans do not have an approved grading permit that has been implemented with a pre-construction meeting and installation of approved tree protection devices as confirmed by the county. A new TCP shall be reviewed and approved using the provisions of this Division.
- (4) TCPs that are approved prior to July 1, 2024 shall comply with the provisions of this Division when being revised in accordance with Sub 25-119(c)(1)(A).
- (5) Applications for woodland conservation banks that were submitted before December 31, 2020 that provide for conservation of all or part of an existing forest shall be grandfathered.

Sec. 25-120. Administration.

(a) Administration, Review, Reports and Fees

- (1) This Division shall be administered by the Maryland-National Capital Park and Planning Commission's Planning Department and the County. Plan review and enforcement functions shall be coordinated between all applicable agencies and all required

documentation shall be compiled to ensure that the provisions of [The Maryland] the
Forest Conservation Act and this Division are being administered properly.

* * * * *

(b) Appeal of Decisions

[(1) Appeal of decisions made by the Planning Director [or designee] may be made to the
Planning Board in conformance with Subtitle 27 of this Code.]

(1) A final decision of the Planning Director may be appealed to the Planning Board within
30 days of the decision by the applicant, the owner of the property subject to the
application, or an adjacent and abutting property owner aggrieved by the decision of the
Planning Director.

(2) A final decision of the Planning Board is subject to judicial review in the Circuit Court of
Prince George's County by petition of the applicant, the owner of the property subject to
the application, or an adjacent and abutting property owner aggrieved by the decision of
the Planning Board in accordance with the Planning Board's procedures.

(c) Inspection and Enforcement

(1) Inspections before, during, and after construction.

(A) County inspectors may enter properties subject to this Division for the purpose of
inspection and enforcement. The Planning Director [or designee] may enter
properties to confirm information provided on an FSD, NRI or TCP submitted for
review.

* * * * *

(G) Prior to the issuance of a use and occupancy permit, an inspection shall be
conducted by the County inspector to ensure that all temporary and permanent tree
protection devices are in place. If the tree protection devices are not in place the use
and occupancy permit shall not be issued. Temporary tree protection devices shall
remain in place until the bond has been released for the subject property. Permanent
tree protection devices shall remain in place [in perpetuity] until satisfactory
afforestation and reforestation survival is met.

(H) Prior to the issuance of the use and occupancy permit for a subject lot or parcel, an
inspection shall be performed by the County inspector to ensure that the provisions
of the TCP2 for the subject lot have been completed. If [preservation] woodland
conservation areas are shown on the subject lot, the County inspector shall verify
that the [preservation] woodland conservation area is in conformance with the
approved TCP2. If the [preservation] woodland conservation area is less than that

required to be [preserved] conserved, either the additional area shall be [planted as mitigation] conserved or a revised TCP2 shall be [obtained] approved prior to issuance of the use and occupancy permit.

* * * * *

(2) Enforcement

* * * * *

(C) The following actions constitute a violation of this Division:

- (i) Failure to comply with an approved TCP2.
- (ii) The destruction of woodlands in an area greater [that] than 5,000 square feet without a permit or contrary to an approved TCP2.
- (iii) Removal of stumps, leaf litter and/or removal of other native woody understory trees, shrubs, vines and groundcover [plants] in woodlands areas to create a visual open understory with canopy, except as provided for in (3) below.
- (iv) Seeding woodlands with grass seed.
- (v) Covering of woodland grounds with hay or other materials, that prevent woodland re-growth from occurring.
- (vi) [Installation of sheds, garages, large fountains, and other permanent or temporary structures in woodlands.] Any activity that adversely affects the health, structure or integrity of a woodland including, but not limited to, sheds, garages, large fountains, retaining walls, permanent or temporary structures, active recreational activities requiring the placement of playground equipment, paving for basketball or tennis courts, swimming pools, and similar impacts that eliminate or compromise perpetual woodlands.
- (vii) Failure of a property owner to maintain approved preservation, afforestation or reforestation areas in accordance with the approved TCP2. This includes conservation areas established in woodland conservation banks.
- [(viii) Any activity that adversely affects the health, structure or integrity of a woodland including, but not limited to, active recreational activities requiring the placement of playground equipment, paving for basketball or tennis courts, swimming pools, and similar impacts that eliminate or compromise perpetual woodlands.]

- (3) The following activities do not constitute a violation and must be conducted by hand without the use of wheeled mechanical equipment:

- (A) Removal of a documented dead, dying or hazardous tree. In order to be deemed dead, dying or hazardous, the tree must be evaluated by a qualified professional or [certified arborist.] licensed tree expert. To be considered a hazardous tree, the professional must provide documentation that the tree is in a position where it threatens property damage or could cause injury. Refer to the [The Woodland and Wildlife Habitat Conservation] Technical Manual for required documentation of dead, dying or hazardous trees.
- (B) Removal of documented exotic, invasive or noxious plant species. Refer to the [Woodland and Wildlife Habitat Conservation] Technical Manual for required documentation and for lists of plant species that are exotic, invasive or noxious.
- (C) Passive activities such as herb gardens, sitting areas, and wildflower gardens only if existing woodland vegetation, such as native woody understory trees, shrubs, vines and groundcover, is not removed for installation.

* * * * *

- (6) A violation of this Division requires the preparation of a TCP [or] for mitigation purposes [plan] that proposes how the required mitigation will be provided. Priority shall be given to restoration of the area destroyed.

- (A) The required TCP [or] for mitigation [plan] shall be submitted by the property owner or permittee within 30 days of receipt of a violation notice or within the timeframe provided in a decision by the [Board of Appeals.] County.

* * * * *

- (D) When specimen, champion, or historic trees designated for preservation have been damaged or destroyed, the mitigation to be provided shall be equal in value to the restoration or replacement cost as calculated using the latest edition of the "Guide for Plant Appraisal" published by the Council of Tree and Landscape Appraisers. Priority shall be given to restoring the tree(s) if possible, then replanting the area with trees that total the cost of the tree(s) lost if sufficient space is available for replanting. If replanting the area is not feasible, the next option is replanting in an approved location with the final option being payment of a fee-in-lieu equivalent to the amount calculated for restoration or replacement. The restoration or replacement value shall be calculated by a professional with experience using the "Guide for Plant Appraisal." A revision to the approved TCP shall be obtained to reflect the proposed mitigation measures, or, if the site does not have an approved TCP, a TCP2 shall be submitted for approval by the Planning Director [or

designee]. Other methods for calculating mitigation for damaged or destroyed trees may be considered and approved by the Planning Director [or designee].

(E) The property owner or permittee shall provide a completion bond acceptable to the County to cover the required mitigation measures.

(7) Any violation notice issued pursuant to this Division may be appealed in writing to [then]the [Board of Appeals of Prince George's] County within fifteen (15) days of the issuance of the violation notice, unless the County has filed an injunction pursuant to Section 25-120(c)(5) of this Subtitle. For purposes of this subsection, "issuance of the violation notice" means the earlier of the date of posting, the date of personal service, or if mailed, the date that the notice was postmarked.

(d) Woodland Conservation Fund

(1) A Woodland Conservation Fund shall be established and shall receive the following funds:

(A) Fee-in-lieu payments associated with approved TCPs

(B) Fines as a result of violations

(C) [Violation fee-in-lieu payments] Fee-in-lieu payments to mitigate violations

(e) Specimen and Historic Tree Fund. Specimen and Historic Tree Fund is a county fund that where fee-in-lieu funds associated with the removal of Specimen or Historic Trees are held

(1) A Specimen and Historic Tree Fund shall be established and shall receive the following funds:

(A) Fee-in-lieu payment associated with the mitigation for removal of a specimen or historic tree;

(B) Money deposited in the Specimen and Historic Tree Fund may only be spent on reforestation and afforestation, including the costs directly related to site identification, acquisition, prepurchase, and preparation, maintenance of existing forest, and achieving urban canopy goals, and may not revert to any other general fund.

(C) The fee amount shall be \$500 per 2 inches of tree caliper required for replacement. This fee shall be adjusted for inflation in accordance with the Consumer Price Index for all urban consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

[(e)](f) Maintenance of areas designated on a TCP for woodland conservation shall be the responsibility of the property owner.

* * * * *

Sec. 25-121. Woodland and Wildlife Habitat Conservation Requirements.

(a) General.

- (1) A [Tree Conservation Plan (TCP)] TCP is required for all [land development proposals] DRD applications and grading permits that are subject to this Division unless exempted per Section 25-119. The TCP shall be at the same scale as the plans in the associated [plan]application and shall contain all information required to clearly demonstrate that the provisions of this Division are being met. ["The Woodland and Wildlife Habitat Conservation Technical Manual" ("The Technical Manual")] provides guidance on the information required on all [plans] TCPs. Additional information or data deemed necessary for review of the proposed woodland conservation areas may also be required. All calculations shall be made to the nearest one-hundredth of an acre.
- (2) Plans shall be prepared for the entire legal boundaries of all subject lots and/or parcels unless the project is a linear project. For linear projects, refer to Section 25-119 for the requirements.
- (3) Conditions of approval of TCPs may be included in Planning Board, Zoning Hearing Examiner, [or] District Council Resolutions, and or Planning Director approvals to ensure compliance with this Division [and/or] and any [special] provisions of a specific TCP.
- (4) The first TCP approved for a subject property shall set the requirements for that property. All subsequent TCPs shall address the requirements of the initial approval and any additional requirements of the new associated plan or application unless the previous approvals expire.
- (5) Each TCP shall conform to the Countywide Green Infrastructure [Functional Master] Plan and subsequent area master plan or sector plan revisions, including maps and text, unless the Planning Board finds that events have occurred to render the relevant plan recommendations no longer appropriate or, in the case of area master plans or sector plans, the District Council has not imposed the recommended zoning.

* * * * *

- (10) Invasive non-native vegetation shall be evaluated for management [removal within 200 feet of the limits of disturbance] and for potential credit per 25-122(d)(5) toward meeting the requirements of this Division when identified in the review of an FSD or NRI.

(b) Woodland and Wildlife Habitat Conservation Priorit[ies]y Areas

- (1) [The required l] Locational priorities for consideration as woodland conservation are as follows [in the order listed] :
(A) Regulated streams and their buffers

1 [(A)](B) Green infrastructure network elements designated in the Countywide Green
 2 Infrastructure Plan and any subsequent updates, or within the designated green
 3 infrastructure networks in master or sector plans.

4 [(B)](C) Critical habitat areas.

5 [(C)](D) Contiguous wooded areas with: high structural and species diversity; few
 6 nonnative and invasive species present; very good overall stand health; and high
 7 potential to provide a significant amount of habitat for forest interior dwelling plant,
 8 animal, and bird species.

9 [(D)](E) Champion trees designated by the United States, the State of Maryland, the
 10 County or municipalities.

11 [(E)](F) Specimen trees [and historic trees].

12 [(F)](G) Forest Legacy Areas as defined by the state.

13 [(G)](H) Historic trees and trees that are within the environmental setting of a historic
 14 site or associated with a historic resource.

15 [(2) Priority areas may also include:]

16 [(A)] (I) Areas adjacent to Primary Management Areas that are not within the green
 17 infrastructure network

18 [(B)] (J) 100-year floodplains

19 [(C)] (K) Wetlands and their buffers

20 (D) Regulated streams and their buffers]

21 [(E)](L) [Extensive areas of steep] Steep and severe slopes

22 [(F)] (M) Hydric soils associated with wetlands and highly erodible soils on slopes 15
 23 percent and greater

24 [(G)] (N) Forest Interior Dwelling Species (FIDS) habitat

25 (O) Tier II and Tier III Watersheds as identified by the State of Maryland Department of
 26 the Environment

27 (P) Forest in urban areas as delineated by the State of Maryland Department of Natural
 28 Resources and the Maryland State Forest Conservation Technical Manual

29 (c) Woodland Conservation Requirements

- 30 (1) Properties that are subject to this Division shall comply with the woodland conservation
 31 and afforestation threshold requirements established in Table 1. The threshold establishes
 32 the minimum acreage requirement of woodland conservation for a site (other calculations
 33 must be performed to determine the total amount of woodland conservation required) and
 34 is calculated as a percentage of the net tract area of the site.

1 [(2)] (A) The threshold acreage is calculated by taking the gross tract area and subtracting the
 2 100-year floodplain, and any previously dedicated land to determine the net tract
 3 area, and then multiplying the net tract area by the threshold percentage. Refer to
 4 [The Woodland and Wildlife Habitat Conservation] the Technical Manual for more
 5 information and the worksheets required to perform these calculations. If a property
 6 contains more than one Zone, the threshold is calculated based on the proportion of
 7 the total acreage in each Zone and is applied to the entire site.

8 [(3) If a property contains more than one Zone, the threshold is calculated based on the
 9 proportion of the total acreage in each zone and is applied to the entire site.]

10 (B) Except as provided in (C) of this section, the replacement requirement is
 11 determined as:

12 (i) The area of forest removed shall be replaced as described in Table 2 based on its
 13 zoning

14 (ii) All existing forest cover located in a transit-oriented center, measured to the
 15 nearest 1/100 acre cleared on the net tract area, the area of forest removed shall
 16 be replaced at a ratio of ¼ acre (0.25 acre) planted for every one acre removed or
 17 conservation of forest at a ratio of ½ acre (0.50 acre) conserved for every one
 18 acre removed. [and then multiplying the net tract area by the threshold
 19 percentage. Refer to The Woodland and Wildlife Habitat Conservation Technical
 20 Manual for more information and the worksheets required to perform these
 21 calculations.]

22 (C) After meeting the requirements in this section, all remaining unforested riparian
 23 buffers on-site shall be afforested and reforested unless the applicant demonstrates
 24 that planting in the riparian buffer:

25 (i) Would be in conflict with allowable uses as established for the riparian buffer in
 26 Subtitle 32 and the Technical Manual;

27 (ii) Is located on public park property and conflicts with the mission and
 28 established stewardship practices of the park; or

29 (iii) Is not suitable for the establishment and retention of the required planting
 30 material, in which case substitute environmental protection measures as defined
 31 by the State of Maryland Department of Natural Resources and the Maryland
 32 State Forest Conservation Technical Manual may be implemented.

33 [(4)](2) Properties that are subject to this Division shall comply with the woodland
 34 conservation and afforestation threshold are calculated as follows in Table 1 based on its

zoning. [When the calculation of the woodland conservation threshold acreage is greater than the acreage of the existing woodland on-site, the woodland conservation threshold is reduced to the acreage of the existing woodland on-site but not less than the required afforestation threshold. If a condition of zoning approval has established the woodland conservation threshold for a site to a specific percentage, this provision does not apply.

- (5) Woodland conservation thresholds different from those provided in Table 1 may be designated by conditions of zoning approval and/or by a master or sector plan. A variance is required for thresholds not approved as part of a previously approved condition or master or sector plan. Thresholds may not be approved through any process that are lower than the thresholds provided in the Maryland Forest Conservation Act (Natural Resources Article 5-1606).]

- (3) The woodland conservation and afforestation threshold requirements shall be met on-site or an application for a variance must be submitted and approved per Section [25-119(b)] 25-119(d).

Table 1. Woodland Conservation and Afforestation Thresholds Requirements by Zone		
Zone <u>Including and after April 1, 2022</u>	Woodland Conservation Requirements	
	Woodland Conservation Threshold*	Afforestation Threshold*
ROS, AG, AR	50%	20%
RE	25%	20%
RR, RSF-95, RSF-65, RSF-A, RMF-12, RMF-20, RMF-48, RMH, R-PD	20%	15%
CGC, CS, IH, IE, IE-PD, CN, NAC, TAC, LTO, RTO-L, RTO-H, NAC-PD, TAC- PD, LTO-PD, RTO-PD, MU-PD	15%	15%
<u>Transit-Oriented Center Base Zones:</u> <u>LTO, RTO-L, RTO-H, NAC</u> <u>Transit-Oriented Centers Planned Development</u> <u>Zones:</u> <u>NAC-PD, LTO-PD, RTO-PD</u>	15%	15%
LCD, [LMXT] <u>LMXC</u> , LMUTC	Thresholds shall remain the same <u>as conditioned with a Basic Plan or 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] under the prior Subtitle 24 and 27 and [is]was in conformance with Subtitle 27 of the County Code at the time of approval.</u> 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.
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***Percentage of net tract area**

[(7)](4) The woodland conservation and afforestation thresholds for any [zone] Zone included in Subtitle 27 of the Prince George's County Code which is not specifically listed herein shall be based on the most similar [zone] Zone to the existing [zone] Zone. Thresholds for properties in [overlay zones] Overlay Zones [and government projects] are determined by the underlying [zones] Zone, except as otherwise provided in this Division.

[(8) In the case of a property of which any part is zoned LMXT, the woodland conservation and afforestation threshold shall be in accordance with the requirements for the LMXT Zone.]

(d) Conservation Requirement Calculations

(1) The amount of woodland conservation required is calculated using one of the worksheets provided in the Technical Manual. The completed worksheet shall be included on the cover sheet or first sheet of each TCP.

(2) The amount of woodland conservation required is calculated using the conservation threshold acreage, with additional conservation acreage required [as follows and] as summarized in Table 2:

[(A) One-quarter of an acre for each acre cleared on-site above the conservation threshold acreage (ratio of ¼ to 1).

(B) Two acres for each acre cleared below the conservation threshold acreage (ratio of 2:1).

(C) One acre for each acre cleared in the 100-year floodplain and all off-site clearing (ratio of 1:1)]

[(D)] (A) The woodland replacement requirements as noted [above] in Table 2 may be waived by the Prince George's County Planning Director [or designee], when all of the following conditions apply:

(i) the application involves the construction of one single-family residential dwelling for the owner or a child of the owner;

(ii) the total area of woodland disturbed does not exceed 20,000 square feet; and

(iii) no woodland is disturbed below the Woodland Conservation Threshold.

[Table 2. Summary of Woodland Conservation Calculations] <u>Table 2 Woodland Conservation Replacement Requirements</u>
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[Woodland Removed] <u>Location of Woodland Clearing</u>	[Replacement Ratio] <u>Woodland Replacement Requirement (acres)</u>
[Clearing Above Threshold] <u>Clearing inside transit-oriented centers</u>	[¼:1 (quarter acre added to the requirement for each acre removed)] <u>0.25:1 (one quarter acre woodland replacement required for each acre cleared)</u>
[Clearing Below Threshold] <u>Clearing outside transit-oriented centers</u>	[2:1 (two acres added to the requirement for each acre removed)] <u>1:1 (one acre woodland replacement required for each acre cleared)</u>
<u>Clearing for Government or linear project</u>	<u>1:1 (one acre woodland replacement required for each acre cleared)</u>

Sec. 25-122. Methods for Meeting the Woodland and Wildlife Conservation Requirements.

(a) General

- (1) Woodland conservation shall be designed as stated in this Division unless a variance is approved by the approving authority for the associated case.
- (2) All required conservation measures shall be completed in the time period specified but no later than prior to approval of the associated building permit for the subject lot or parcel or an adjacent lot or parcel. If this is not feasible due to phasing, grading, staging or other on-site constraints, the conservation measures shall be completed prior to the issuance of any temporary or permanent use and occupancy certificate(s) for the subject phase. All timetables shall be set forth on the approved [tree conservation plan] TCP.
- [(3)] (3) All afforestation and reforestation, whether on-site or off-site, shall be bonded prior to the issuance of the first permit to ensure completion and long-term survivability. If a site is developed in phases, on-site woodlands may be used to meet the requirement until such time as sufficient woodlands are being cleared to engage the off-site requirement. Prior to approval of the phase that engages the off-site requirement, the afforestation and reforestation for off-site woodland conservation shall be bonded. If on-site conservation is approved to meet the requirements, all conservation areas shall receive credit at a ratio of 1:1 (one acre of conservation for each acre of requirement).
- (4) If off-site woodland conservation is approved to meet the requirements and afforestation, reforestation, or natural regeneration areas are proposed to meet the requirements, the credit shall be at a ratio of 1:1 (one acre of conservation must be provided for each acre of requirement).
- (5) If off-site woodland conservation is approved to meet the requirements and preservation areas are proposed to meet the requirements, the woodland conservation credit shall be at a ratio of 2:1 (two acres of preservation must be provided for each acre of requirement).]
- [(6)] (3) If off-site woodland conservation is approved to meet the requirements, then the following locations shall be considered in the order listed: within the same eight-digit sub-watershed, within the same watershed, within the same river basin [, within the same

growth policy tier, or] within Prince George's County. Applicants shall demonstrate to the Planning Director [or designee] due diligence in seeking out opportunities for off-site woodland conservation locations following these priorities. All woodland conservation is required to be met within Prince George's County.

(4) If the unforested riparian buffer planting is approved to meet the replacement requirements, the woodland conservation credit shall be at a ratio of 1:1 (one acre of conservation must be provided for each acre of requirements).

(5) Unforested riparian buffer planting beyond that required for woodland conservation in Section 25-121 shall be placed under a woodland conservation easement and the woodland conservation credit shall be at a ratio of 1:1 (one acre of conservation for each acre of planting). Such credits in excess of the woodland conservation requirements may be utilized to meet the requirements of another TCP either on-site or off-site.

(b) Design Criteria

(1) The following design criteria shall be followed on all TCPs unless a variance has been approved by the appropriate approval authority per Sec. 25-119(d).

(A) Land development and the associated clearing and grading shall be designed to ensure that the long-term preservation of areas designated as woodland conservation or woodlands retained but not credited thrive in perpetuity.

(B) Conceptual building footprints and associated infrastructure including but not limited to driveways, utilities, secondary structures, parking facilities that reflect the maximum limit of disturbance for the construction of buildings shall be shown and shall include add-on building features such as sun rooms and decks.

(C) Conceptual grading in accordance with an approved stormwater concept plan shall be shown on all TCP1s and TCP2s. Detailed grading in accordance with erosion and sediment control plan shall be shown on all TCP2s.

(D) The limits of disturbance shown shall allow for the construction of the proposed development using standard building techniques. If special techniques are proposed to reduce clearing, those techniques must be shown on the TCP with details related to the proposed construction method and limits of disturbance. The required clearing to address the provisions of all applicable provisions of the County Code shall be shown.

(E) Woodland conservation areas shall be designed in such a way as to ensure their survival in perpetuity. [At a minimum, the limits of disturbance shall reflect 40 feet of cleared area to the front and rear of all building footprints and 20 feet of cleared

area to the sides of all building footprints within the subject lot or parcel. The TCP2 shall show these dimensions on all plans, including plans used for house type changes.] At a minimum, woodland conservation areas shall be shown no closer than:

(i) 40 feet of cleared area to the front and rear of all residential building footprints and 20 feet of cleared area to the sides of all building footprints within the subject lot or parcel. The TCP2 shall show these dimensions on all plans, including plans used for house type changes.

(ii) 10 feet from the top or bottom of retaining walls and from the rear lot lines of townhouse units or other attached buildings;

(iii) 20 feet from all sides of commercial and multifamily buildings.

(iv) 5 feet from road rights-of-way, 5 feet from travel aisles and parking areas in and adjacent to parking lots and

(v) 10 feet from areas used for truck loading, unloading, or service areas.

* * * * *

(H) Trees, shrubs, and plants identified on the list of rare, threatened, and endangered list of the U.S. Fish and Wildlife Service or the State of Maryland Department of Natural Resources shall be preserved.

(I) Within transit-oriented centers, [All] all woodland conservation areas including landscape areas shall be a minimum of [10,000] 5,000 square feet in area [unless landscaped areas are used when the size may be reduced to 5,000 square feet]. If on-site conservation areas are proposed to be less than [10,000] 5,000 square feet in area, abutting off-site areas may be used to meet the [10,000] 5,000 square foot minimum contiguity requirements if they have been previously protected by a TCP or other prior approved mechanism.

(J) Outside of transit-oriented centers, [All] all woodland conservation areas shall be a minimum of 10,000 square feet in area. If on-site conservation areas are proposed to be less than 10,000 square feet in area, abutting off-site areas may be used to meet the 10,000 square foot minimum contiguity requirements if they have been previously protected by a TCP or other prior approved mechanism.

[(J)] (K) All woodland conservation areas shall be a minimum of 50 feet in width. If less than 50 feet is proposed on-site, abutting woodlands may be used if they have been previously protected by a TCP or other prior approved mechanism, such as a conservation easement. Landscaped areas may be 35 feet in width.

1 [(K)] (L) Woodlands retained on lots [20,000 square feet or less] one acre or less in
 2 [total area] size shall be counted as cleared and shall [may] be shown on the TCP as
 3 [if] labeled "woodland retained - assumed cleared."

4 [(L)] (M) Woodlands retained on lots or parcels [between 20,000 square feet and]
 5 greater than one acre in size may show woodland that is retained and not counted as
 6 cleared, if it meets the other design criteria [of this Division] per (I), (J) and (K)
 7 above and is labeled "woodland retained - not credited."

8 [(M)] (N) Woodlands retained per [(K) and] (L) and (M) above may be counted toward
 9 meeting the tree canopy coverage requirements of Division 3 of this Subtitle.

10 [(N)] (O) The following areas shall be treated as follows:

11 (i) [Areas of] Land previously dedicated [land] for public use [that remain part of
 12 the subject application shall be subtracted from the gross tract area and] shall not
 13 be counted toward meeting the requirements of this Division.

14 (ii) [Land shown within the 100-year floodplain shall be subtracted from the
 15 gross tract area] Existing woodland within the 100-year floodplain [and] shall
 16 not be counted toward meeting the preservation requirements. Planting in the
 17 floodplain may be credited with meeting the requirements of this Division.

18 (iii) Land within all types of easements except surface drainage easements shall
 19 not be counted toward meeting the requirements and shall be counted as cleared.
 20 Surface drainage easements may be used to meet the requirements and shall not
 21 be counted as cleared unless shown as cleared on the TCP. Planting in the
 22 floodplain easement shall conform to the requirements of this Division and
 23 placed in a woodland conservation easement.

24 * * * * *

25 [(O)] Woodland conservation areas shall be designed in such a way as to ensure their
 26 survival in perpetuity. At a minimum, woodland conservation areas shall be shown
 27 no closer than:

28 (i) 10 feet from the top or bottom of retaining walls and from the rear lot lines of
 29 townhouse units or other attached buildings;

30 (ii) 20 feet from all sides of commercial and multifamily buildings.

31 (iii) 5 feet from travel aisles and parking areas in and adjacent to parking lots

32 (iv) 10 feet from areas used for truck loading, unloading, or service areas.]

33 [(P)] (O) (P) Woodlands within proposed septic fields and septic recovery areas are
 34 required to be counted as woodland retained [- not credited] - assumed cleared.

1 [(P)] (Q) Land development shall be designed to meet the requirements of this Division
 2 on-site to the fullest extent possible unless a variance is granted pursuant to Sec 25-
 3 119(d).

4 (c) Conservation Method Priorities.

- 5 (1) The recommended [required] priorities for woodland conservation methods are as follows
 6 [in the order listed] :

7 (A) Onsite preservation and conservation of stream buffers, including the planting of
 8 unforested stream buffers.

9 [(A)] (B) On-site preservation of connected woodland and wildlife habitat areas using
 10 woodlands in good condition with limited amounts of invasive or exotic plants.

11 [(B)] (C) On-site afforestation/reforestation of connected planting areas using
 12 transplanted native stock, relocated from the site or surrounding areas.

13 [(C)] (D) On-site afforestation/reforestation of connected planting areas using native
 14 whip and seedling stock.

15 [(D)] (E) On-site specimen, champion, and historic trees [in good condition] when the
 16 plan has been designed to ensure long-term survival.

17 [(E)] (F) On-site natural regeneration of connected areas in appropriate locations
 18 containing sufficient native seed sources with appropriate protection mechanisms
 19 and [long term] long-term management.

20 [(F)] (G) Off-site afforestation/reforestation of connected planting areas using
 21 transplanted native stock, relocated from the site or surrounding areas [, in an
 22 approved woodland conservation bank].

23 [(G)] (H) Off-site afforestation/reforestation of connected planting areas using native
 24 whip and seedling stock [in an approved woodland conservation bank].

25 [(H)] (I) Off-site preservation of connected woodlands [in an approved woodland
 26 conservation bank].

27 [(I)] (J) On or off-site habitat enhancement projects [of] to connect[ed] areas of
 28 existing woodlands that result in improved wildlife habitat and forest vigor through
 29 the removal of invasive or exotic plant species and/or planting of native plant
 30 species.

31 [(J)] (K) Off-site natural regeneration of connected areas in appropriate locations
 32 containing sufficient seed sources with appropriate protection mechanisms and
 33 long-term management [in an approved woodland conservation bank].

34 [(K)] (L) On-site landscaping using native species of field grown nursery stock that

establish landscaped areas a minimum of 35 feet wide and 5,000 square feet in area in transit-oriented centers. At least 50 percent of the plants in the landscaped area must be trees.

[(L)] (M) Street trees on or adjacent to the site when located in transit-oriented centers outside rights-of-way; [the following areas as designated by the Prince George's County General Plan: Transportation Service Area 1, Regional Transit Districts, or Local Centers;] or in conformance with:

(i) a municipality's street tree planting plan or program, where the trees have been provided sufficient root zone space to ensure long-term survival and sufficient crown space is provided that is not limited by overhead utility lines and public utility easements that are existing or proposed.

(ii) Section 25-122(d)(8) for criteria relating to the use of street trees.

[(M)] (N) Fee-in-lieu may be used to meet the requirements of this Division, when all other options have been exhausted, as determined by the Planning Director [or designee]. Refer to [Section 25-122(d)(8)] Section 25-122(d)(9) for criteria relating to the use of fee-in-lieu.

(d) Woodland Conservation Options - Credit and Security

(1) On-site preservation [, on-site afforestation, on-site reforestation and on-site natural regeneration] .

(A) Credit: Woodland preserved [, planted or regenerated on-site] may be credited toward the conservation requirements on an acre for acre basis (ratio of 1:1). To be eligible for use as woodland preservation, the areas must be designated as woodland on the FSD, the woodland shall not have been harvested in the last five (5) years, and the woodland must be in medium or better [good] condition as rated per the guidelines in the Technical Manual and with 15% or less [limited amounts] of invasive or exotic plants.

[(i) To receive credit for afforestation or reforestation or on-site natural regeneration a [four] five-year management plan must be prepared as part of the TCP2 following the guidelines provided in the Technical Manual.]

[(ii)] (i) Areas that have been harvested may be considered for use as woodland preservation if a report from a qualified professional states that the woodlands are in good condition, are in the process of regeneration, and contain [limited amounts] 15% or less of invasive or exotic plants.

(B) Security: Woodlands preserved [, planted or regenerated on-site] shall be placed in

[a conservation easement] permanent protection recorded in the land records. Areas of reforestation shall be bonded separately from other site development components at an amount to be calculated as stated in the Technical Manual.

(2) On-site afforestation, on-site reforestation and on-site natural regeneration.

(A) Credit: Woodland planted or regenerated on-site may be credited toward the conservation requirements on an acre for acre basis (ratio of 1:1). To be eligible for use, the areas must be designated as afforestation and reforestation areas on the TCP, the natural regeneration must be in medium or better condition with 15% or less of invasive or exotic plants, and a five-year management plan must be prepared as part of the TCP2 following the guidelines provided in the Technical Manual.

(B) Security: Woodlands planted or regenerated on-site shall be placed in permanent protection as recorded in the land records and shall be bonded separately from other site development components at an amount to be calculated as stated in the Technical Manual.

[(2)] (3) On-site specimen, champion, and historic trees

(A) Credit: Specimen, champion, and historic trees may be credited by counting [twice] the square footage of the unimpacted critical root zone area if they are not within a designated woodland conservation area and if the site has been designed to ensure long-term survival. If the specimen, champion, or historic trees are within a woodland conservation area, additional credit shall not be calculated.

(B) Security: A bond amount equal to the removal and replacement cost of the specimen, champion and historic tree shall be provided prior to permit issuance if the additional credit noted in (A) above is used. The replacement cost shall be calculated by the permittee using the latest edition of the "Guide for Plant Appraisal" prepared by the Council of Tree and Landscape Appraisers. If the tree does not survive construction, mitigation shall be provided as stated in Section 25-120(c)(6)(D). A tree management plan shall be prepared for each specimen, champion or historic tree preserved.

[(3)] (4) Off-site preservation

(A) Credit: Woodlands preserved off-site may be credited toward meeting the conservation requirements at a ratio of two acres of off-site preservation for each acre of conservation required (ratio of 2:1). To be eligible for use as woodland preservation, the areas must be designated as woodland on the FSD, the woodland shall not have been harvested in the last five (5) years, and the woodland must be in

medium or greater [good] condition [and] with 15% or less [limited amounts] of
invasive or exotic plants.

- (B) Security: Off-site preservation shall be provided in an approved TCP2. [woodland conservation bank.] Permanent protection such as conservation easements recorded in land records shall be provided [through the recordation of documents as provided] in accordance with the Technical Manual.

[(4)] (5) Off-site reforestation and natural regeneration

- (A) Credit: Woodlands planted or regenerated off-site may be credited toward meeting the conservation requirements at a ratio of one acre of planting or regeneration for each acre of conservation required (ratio of 1:1).

- (B) Security: Off-site planting and regeneration shall be provided in an approved TCP2. [woodland conservation bank.] Permanent protection such as conservation easements recorded in land records shall be provided [through the recordation of documents as provided] in accordance with the Technical Manual. Areas of reforestation shall be separately bonded at an amount equal to the current cost of installation and maintenance of the required plantings. To receive credit for off-site reforestation or natural regeneration a [four] five-year management plan must be prepared as part of the TCP2 following the guidelines provided in the Technical Manual.

[(5)] (6) On or off-site habitat enhancement projects

- (A) Credit: Habitat enhancement projects may receive credit toward meeting the conservation requirements at a rate of up to a [one-quarter] half-acre (up to ratio of 0.5:1) of additional credit for each acre of on-site or off-site habitat enhancement provided. Habitat enhancement shall be conducted within woodlands that have already received credit for preservation or natural regeneration.

- (B) Security: To receive credit for habitat enhancement a five-year management plan must be prepared as part of the TCP2 following the guidelines provided in the Technical Manual. If the additional credit is sought, habitat enhancement shall be bonded at an amount determined according to the direction provided in the Technical Manual and the proposed management plan activities.

[(6)] (7) On-site landscaping within transit-oriented centers

- (A) Credit: Landscaping may be credited toward meeting the conservation requirements at a ratio of one acre of planting for each acre of conservation required (ratio of 1:1).

(B) Security: Landscaping credited to meet woodland conservation requirements shall be bonded [by the County] at an amount equal to the current cost of installation and maintenance of the required plantings.

[(7)] (8) Street trees within transit-oriented centers

(A) Credit: Street trees may receive credit toward meeting the conservation requirements by calculating the square footage of tree canopy coverage to be provided in ten (10) years (refer to ["T"] the Technical Manual[""] for calculations). Street trees must be located on or adjacent to the site and shall be planted by the applicant in order to receive credit.

(B) Security: Street trees credited to meet woodland conservation requirements shall be bonded at an amount equal to the current cost of installation and maintenance of the required plantings by the permittee of the site receiving the woodland conservation credit. Permanent protection such as conservation easements recorded in land records shall be provided in accordance with the Technical Manual.

[(8)] (9) Fee-in-lieu

(A) Credit: Fee-in-lieu may be used to meet the conservation requirements after all other options are exhausted. Fee-in-lieu may be used [, and] if the total conservation requirement is one [(1)] acre or less. If approved by the Planning Board, fee-in-lieu may be provided for meeting conservation requirements that total one [(1)] acre or larger if the project generating the requirement is located in the [Developed Tier] transit-oriented centers or if the approval of the use of fee-in-lieu addresses an identified Countywide conservation priority. The fee rate can be adjusted to reflect inflation increases using the base rate of ninety cents (\$0.90) per square foot, as of June 30, 2024, of the conservation requirement within the designated Priority Funding Area and [at] a rate of [one dollar and eight cents (\$1.08)] 120% of the base rate per square foot, as of June 30, 2024, of conservation requirement outside the designated Priority Funding Area. These funds shall be placed in the Woodland Conservation Fund.

(B) Security: Proof of payment of fee-in-lieu to the County based on the development activity proposed shall be provided prior to the issuance of the first permit unless the project is phased. Phased projects shall pay the fee-in-lieu amount for each phase prior to the issuance of any permits for that phase if the entire fee is not paid prior to issuance of the first permit. The TCP2 shall show the breakdown of the fee-in-lieu payment due with each phase.

[(9)] (10) Other options to meet the conservation requirements that are consistent with this Division may be considered by the [Planning Board] approving authority. The amount of credit to be provided shall be evaluated on a case-by-case basis. Security shall be provided using the method that best fits the proposal and can include easements on the final plat, easements recorded in the land records, bonding or other methods that are appropriate to the proposal.

(e) Woodland Conservation Provided Off-site [(Woodland Conservation Banks)]

(1) The woodland conservation requirements of this Division may be met at an off-site TCP2, [approved woodland conservation bank.] If off-site woodland conservation credit is moved after it is established, it is once again subject to the provisions of this Division. Appropriateness of properties for establishment as a woodland conservation bank shall be evaluated using the priorities contained in Section 25-121 of this Division.

(A) A woodland conservation bank is defined as a property where specified portions are encumbered to meet the woodland conservation requirements of benefiting projects through the recordation of required documents in the County land records.

(B) A woodland conservation bank:

(i) Preservation: Can be used to meet up to 60% of the replacement requirement and credit shall be granted at a 2:1 acre replacement ratio (two acres of preserved forest for each acre required).

(ii) Planted: Can be used to meet the replacement requirement and the credit may be provided at 1:1 acre replacement ratio (one acre planted for each one acre required).

[(B)] (C) If a property subject to a land development proposal has met all its requirements on-site and has excess woodland conservation available, the excess woodland conservation may become a woodland conservation bank provided:

* * * * *

(2) Woodland conservation banks shall:

* * * * *

(C) Limit the use of the land in the bank to those activities which are consistent with woodland conservation such as recreational activities that do not result in vegetation removal; forest stewardship under a forest conservation and management agreement under Tax-Property Article, § 8-211, Annotated Code of Maryland; or activities specified in a Forest Management Plan prepared by a licensed forester and approved by the Planning Director [or designee];

(f) Woodland Conservation Bonding

[(2) Two years after the conservation methods have been completed, a reduction in the bond amount of up to fifty percent (50%) may be approved by the County. The request for bond reduction shall be submitted in writing and include documentation of the completion of the conservation methods and a survival count of materials. The Planning Director [or designee] shall recommend to the County whether a bond reduction is appropriate, taking into account the following:

- (A) The number of acres;
- (B) The proposed method of woodland conservation;
- (C) The cost of planting materials or replacement materials;
- (D) The cost of maintenance of the project;
- (E) Demonstrated survival count of materials; and
- (F) Other relevant factors.]

[(3)](2) After a final inspection of the site by the County inspector confirms that the areas meet or exceed the requirements of the approved TCP and no sooner than [four] five years after establishment, the bond or other security shall be returned or released.

[(4)](3) The bond or other security may be subject to forfeiture if the approved TCP is not implemented fully and within the time frames specified on the plan. The County shall notify the permittee by certified mail of the intention of the County to initiate forfeiture proceedings.

[(5) If a woodland conservation bank is established using afforestation or reforestation, the property owner is responsible for maintaining the designated areas to ensure their survival in perpetuity. Failure to do so is a violation of this Division.]

(4) Woodlands planted or regenerated on-site shall be placed in permanent protection as recorded in the land records and shall be bonded separately from other site development components at an amount to be calculated as stated in the Technical Manual.

(5) All afforestation and reforestation, whether on-site or off-site, shall be bonded prior to the issuance of the first permit to ensure completion and long-term survivability.

(6) If on-site conservation is approved to meet the requirements, all conservation areas shall receive credit at a ratio of 1:1 (one acre of conservation for each acre of requirement).

Sec. 25-123. Forest Stand Delineations.

- (a) General

- (1) A Forest Stand Delineation (FSD) shall be prepared for all applications for [Basic Plans,] Letters of Exemption and Natural Resource Inventories (NRIs). When an FSD is prepared and reviewed as part of an NRI a separate review is not required.

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- (4) FSDs may be submitted at three levels of detail, depending on the associated application, as described in the Technical Manual [follows:

(A) A Simplified Forest Stand Delineation may be submitted when applying for a Standard or Numbered Letter of Exemption. Sampling data collection is not required; however, a brief narrative description of the woodlands and a calculation of the amount of woodlands on the site shall be provided. The plan shall accurately locate all existing woodlands on the lot(s) and/or parcel(s). Only a plan is required to be submitted; a separate text document is not required. The Planning Director or designee may waive the requirement for an FSD if sufficient information is provided by the applicant. This option may also be used for NRIs that have no regulated environmental features and limited areas of woodland on-site.

(B) An Intermediate Forest Stand Delineation may be submitted when the subject application is for properties where the proposed activity will occur on a small portion of a larger property. Intermediate FSDs shall include a plan showing the location of all woodlands on the property and the associated text per the checklist provided in the Technical Manual. Intermediate FSDs must contain all of the information required on a Simplified FSD for the entire site, and text and sampling data for areas proposed for development. Intermediate FSDs may be submitted as part of an NRI, as determined by the Planning Director or designee.

(C) A Detailed Forest Stand Delineation shall be submitted when the site or application does not qualify for a Simplified or Intermediate FSD. A Detailed FSD shall include a plan showing the location of all woodlands on the property and the associated text per the checklist provided in the Technical Manual.]

- (5) The FSD must cover at least the area of the associated plan or [subject] application; it may cover a larger area if all acreages for the associated plan or [subject] application are calculated separately.

- (6) The FSD must be at the same scale as the associated plan or [subject] application. The FSD and NRI shall use the same base data as that used for all other plans.

- (7) FSDs are valid for five (5) years from the date of signature by the qualified professional. If the site is completely forested with mature woodlands that have not been harvested, a

FSD may be valid for longer than five years after a review by the Planning Director [or designee]. An FSD shall be updated sooner than five years if significant woodland changes have occurred since the date the initial FSD was prepared, such as if a portion of the site has been developed or forest management activities have occurred on-site.

- (8) If an associated plan or application has a previously reviewed FSD and the site has undergone development since that review, the FSD for subsequent associated plans or applications on the property shall be revised to reflect the existing conditions and previous approvals and shall reference the TCP that approved the clearing. All calculations shall be provided for both pre- and post-development conditions.
- (9) FSDs shall be reviewed by the Planning Director [or designee] within 30 calendar days of receipt of a complete and accurate submission. If comments are not received within the 30-day timeframe, the information is considered adequate for review.

Sec. 25-124. Forest Management and Harvesting.

(a) General

- (1) Properties that have been or will be harvested for forest products for commercial purposes within five (5) years of [land development] DRD or grading permit application submission shall be subject to this Division.

* * * * *

- (4) If a site has a pending [development] DRD application, that application must receive signature approval prior to the commencement of forest harvesting operations.

(b) Forest Management Activities Not Requiring a Grading or Forest Harvest Permit

- (1) The removal of less than five (5) cords or two thousand (2,000) board feet of wood per year for personal use is allowed if a stocking level of eighty (80) square feet of basal area is maintained, and the shrub layer, herbaceous layer, and the leaf litter remain intact.
- (2) Non-commercial forest management activities, such as trimming or stand improvement, are allowed performed in accordance with a [an approved] Forest Management Plan prepared by a licensed forester when no forest products are removed from the site and acceptable stocking levels are maintained.
- (3) Non-commercial removal [Removal] of other forest products such as mushrooms, nuts, or berries not requiring the use of motorized wheeled or tracked equipment is allowed, unless the activity will impair the health of the forest.

(c) Exemptions for Forest Harvesting

- (1) A Numbered Letter of Exemption may be issued by the Planning Director [or designee] for forest harvesting when the following apply:

- * * * * *
- (D) [An approved] A Forest Management Plan prepared by a licensed forester is submitted with the application for the Numbered Letter of Exemption; and
- (E) A Declaration of Intent is submitted that states the property owner's intent to conduct a commercial forest harvest and not to develop the land within five years of the completion of the forest harvest.
- (2) Letters of Exemption for forest harvests shall remain valid for a period of [two] five years following the date of issuance.
- (d) Commercial Forest Harvesting on Properties with a Previously Approved TCP
- (1) A property with an approved TCP shall not be issued a Numbered Letter of Exemption for forest harvesting.
- (2) Forest harvesting must be performed in accordance with a revised TCP2 approved for harvesting, and a [an approved] Forest Management Plan prepared by a licensed forester.
- (3) A forest harvesting permit shall be obtained from the County permitting authority prior to commencement of the harvesting operation. The permit application shall include a forest harvest plan and an approved erosion and sediment control plan. The forest harvesting plan is a plan drawn to scale showing the regulated environmental features, the areas to be harvested, staging areas, proposed stream crossings, and the forest harvesting methods proposed for each area to be harvested.
- (e) Commercial Forest Harvesting on Properties without a Previously Approved TCP
- (1) If forest harvesting is proposed on a site without a previously approved TCP, a Numbered Letter of Exemption shall be issued by the Planning Director [or designee] prior to the issuance of the forest harvesting permit by the County permitting authority.
- (2) [An approved] A Forest Management Plan prepared by a licensed forester shall be submitted with the application for a Numbered Exemption.
- (3) A forest harvesting permit shall be obtained from the County permitting authority prior to the commencement of the harvesting operation. The permit application shall include an approved forest harvest plan and an approved erosion and sediment control plan. The forest harvesting plan is a plan drawn to scale showing the regulated environmental features, the areas to be harvested, staging areas, proposed stream crossings, and the forest harvesting methods proposed for each area to be harvested.
- (4) If a forest harvesting permit is issued for a property with an approved NRI or FSD, the NRI or FSD must be revised prior to the submittal of any subsequent [development] DRD

1 and grading permit applications to reflect the harvested area and the current condition of
2 the woodlands remaining.

3 * * * * * * *

4 SECTION [#] 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
5 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
6 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
7 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
8 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
9 Act, since the same would have been enacted without the incorporation in this Act of any such
10 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
11 or section.

12 SECTION [#.] 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five
13 (45) calendar days after it becomes law.

Adopted this 7th day of May, 2024.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jolene Ivey
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
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.

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