

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2010 Legislative Session

Bill No. CB- 27-2010

Chapter No. _____

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

Introduced by Council Members Dernoga and Olson

Co-Sponsors _____

Date of Introduction June 15, 2010

BILL

1 AN ACT concerning

2 Woodland, Wildlife Habitat and Tree Canopy Conservation

3 For the purpose of updating the overall ordinance, clarifying design criteria concerning
4 woodland, wildlife habitat and tree canopy conservation; including provisions for variances
5 under certain circumstances; and implementing the recommendations of the Countywide Green
6 Infrastructure Functional Master Plan, approved June 14, 2005.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 25. TREES AND VEGETATION.

9 Section 25-101

10 The Prince George's County Code
11 (2007 Edition, 2009 Supplement).

12 BY repealing:

13 Section 25-117

14 The Prince George's County Code
15 (2007 Edition, 2009 Supplement).

16 BY adding:

17 Sections 25-117, 25-118, 25-119, 25-120, 25-121,
18 25-122, 25-123, 25-124, 25-125, 25-126, 25-127, 25-128, 25-129

19 The Prince George's County Code
20 (2007 Edition, 2009 Supplement).

21 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,

1 Maryland, that Section 25-101 of the Prince George's County Code be and the same is hereby
2 repealed and reenacted with the following amendments:

3 **SUBTITLE 25. TREES AND VEGETATION.**

4 **DIVISION 1. GENERAL.**

5 * * * * *

6 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
7 Maryland, that Section 25-117 the same is hereby repealed:

8 **[Section 25-117. Woodland Conservation and Tree Preservation.**

9 (a) Authority.

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

14 (b) Enforcement, mitigation.

15 (1) Enforcement of this Section and the approved Tree Conservation Plan is the
16 responsibility of the County Department of Environmental Resources.

17 (2) The permittee shall complete the approved mitigation measures within the time
18 specified by the Planning Director, or his designee, but not later than prior to the issuance of any
19 use and occupancy certificate(s). Only field grown nursery stock, with a preference for plants
20 indigenous to coastal and piedmont regions, planted in an approved pattern, shall be used for
21 mitigation. Specimen trees shall be replaced according to the cost formula developed by the
22 International Society of Arboriculture (ISA) and published in the most recent edition of
23 "Valuation of Landscape Trees, Shrubs, and Other Plants."

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

1 (c) Minor changes.

2 (1) The Planning Director may approve minor changes or revisions to a Tree
3 Conservation Plan, provided that:

4 (A) The increased area of disturbance is not greater than five hundred (500)
5 square feet;

6 (B) The disturbance does not encroach into the one hundred (100) year
7 floodplain;

8 (C) The revision in no way affects wetlands; and

9 (D) The revision meets all requirements of the Zoning Ordinance.

10 (d) Within a Tree Conservation Area, except for land located in the Chesapeake Bay Critical
11 Area Overlay Zones, cutting or clearing of trees shall be prohibited except that:

12 (1) Individual trees that are in danger of falling or causing damage to dwellings or other
13 structures or that are in danger of falling and thereby causing the blockage of streams, or
14 resulting in accelerated shore erosion may be removed;

15 (2) Silvicultural practices may be used to maintain the health of woodlands and
16 individual trees; and

17 (3) Trees that are one (1) inch or less in diameter at breast height and woody vegetation
18 may be cut or cleared.]

19 SECTION 3. BE IT ENACTED by the County Council of Prince George's County,
20 Maryland, that Sections 25-117, 25-118, 25-119, 25-120, 25-121, 25-122, 25-123, 25-124,
21 25-125, 25-126, 25-127, 25-128 and 25-129 of the Prince George's County Code and the same
22 are hereby added:

23 **DIVISION 2. WOODLAND AND WILDLIFE HABITAT**

24 **CONSERVATION ORDINANCE**

25 **25-117. Policy; Purpose.**

26 **(a) Policy.**

27 (1) It is the policy of the Prince Georges County government to conserve and protect
28 trees, woodlands and wildlife habitat by requiring site planning techniques and construction
29 practices which prevent adverse affects on these sensitive environmental features. These efforts
30 shall be coordinated with the implementation of the Countywide Green Infrastructure Plan and
31 the regulations regarding sensitive environmental features in the County Code.

1 To implement this policy the County has established:

2 (A) **Goals** for the conservation of trees, tree canopy, woodlands and wildlife
3 habitat for present and future citizens of Prince George's County in the 2002 General Plan;

4 (B) **A Countywide Green Infrastructure Plan** that provides a long-term vision
5 for the preservation, enhancement and restoration of designated lands within the network and
6 measurable objectives for plan implementation;

7 (C) **Requirements** for the preservation and protection of trees, woodlands and
8 wildlife habitat having local, state, or national significance, particularly those trees of notable
9 size, species, historical context or ecological role and those wildlife habitats that are scarce and
10 in need of protection;

11 (D) **Procedures** to manage the necessary clearing and disturbance of woodlands
12 in ways that promote habitat protection and the maintenance of healthy vegetation;

13 (E) **Standards** for the protection and enforcement of conservation areas
14 containing trees, woodlands and wildlife habitat sufficient to maintain and improve water quality
15 and to safeguard ecological and aesthetic values;

16 (F) **Incentives** to conserve and preserve woodland elements through the
17 appropriate use of alternative and innovative designs; and

18 (E) **Fines** for removing trees, woodlands or wildlife habitat without an approved
19 Tree Conservation Plan or in violation of an approved plan.

20 **(b) Purpose.**

21 (1) The purpose of this Division is to:

22 (A) Preserve, maintain, enhance, and restore woodlands and wildlife habitat for
23 the benefit of County residents and future generations;

24 (B) Establish procedures, standards, and requirements to minimize woodland loss
25 and to protect trees and woodlands before, during, and after construction or other land disturbing
26 activities;

27 (C) Establish procedures, standards and requirements for woodland conservation;

28 (D) Establish a fund for future woodland conservation efforts, including
29 afforestation, reforestation, maintenance, land acquisition and the establishment of tree canopy
30 coverage; and

31 (E) Provide a focused and coordinated approach for County woodland

1 conservation activities.

2 **Section 25-118. Definitions.**

3 (a) Definitions in Subtitle 27 of this Code (the Zoning Ordinance) shall apply to this
 4 Division and shall be supplemented by the definitions in Subsection (b) of this Section unless
 5 otherwise noted herein.

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

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

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

12 (3) **Afforestation threshold:** The minimum amount of afforestation or reforestation
 13 that is required where the calculation of a woodland conservation threshold is greater than the
 14 acreage of the existing woodlands on-site, unless a condition of zoning approval has set the
 15 threshold to a specific percentage other than that is listed in this Division.

16 (4) **Agricultural activity:** Aquaculture and farming activities including plowing,
 17 tillage, cropping, installation of best management practice, seeding, cultivating, the grazing and
 18 raising of livestock, sod production and other products cultivated as part of a recognized
 19 commercial enterprise, and harvesting for production of food and fiber products, excluding forest
 20 products. The definition includes tobacco, orchards, nursery stock, Christmas trees, aquaculture
 21 ponds, and other ponds used to conduct farming activities. Activities that result in a change to a
 22 land use other than agriculture are not agricultural activities. Structures or temporary storage
 23 areas related to sale of products are excluded from this definition.

24 (5) **Agricultural support building:** A building other than a human residence necessary
 25 to sustain an agricultural activity.

26 (6) **Applicant:** A person or persons applying for any land development-related plans or
 27 permits, including grading and sediment and erosion control permits.

28 (7) **Application:** A package submitted for review under this Division or Subtitles 4, 24
 29 or 27 of the County Code.

30 (8) **Approving authority:** The body that is responsible for approval of the application,
 31 in conformance with this Division and other applicable sections of County Code.

1 (9) **Associated plan or application:** The application that generates the need for a Tree
 2 Conservation Plan or Letter of Exemption.

3 (10) **Caliper:** The diameter of a tree measured at two inches above the root collar.

4 (11) **Certified Arborist** is an arborist certified by the International Society of
 5 Arboriculture or other similarly recognized certification program.

6 (12) **Champion tree:** The largest tree of its species within the United States, the State
 7 of Maryland, County, or municipality.

8 (13) **Clearing:** The removal of any components which comprise a biological
 9 community of woodlands as allowed herein.

10 (14) **Conservation area:** See “woodland and wildlife habitat conservation”.

11 (15) **Conservation easement:** A recorded easement established for the protection of
 12 woodland and wildlife habitat used to meet the requirements of Subtitle 25-117, Division 2 or for
 13 the protection of sensitive environmental features. Conservation easements shall contain the
 14 Primary Management Area and may contain other sensitive environmental features as
 15 determined by the Planning Board.

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

19 (17) **Critical habitat area:** The critical habitat of a rare, threatened or endangered
 20 species and its surrounding protection area. A critical habitat area shall:

21 (A) Be likely to contribute to the long-term survival of the species;

22 (B) Be likely to be occupied by the species for the foreseeable future; and

23 (C) Constitute habitat of the species which is considered critical by the U.S. Fish
 24 and Wildlife Service or the Maryland Department of Natural Resources.

25 (18) **Declaration of Intent:** A signed and notarized statement by a landowner or the
 26 landowner’s agent as required by this Division certifying that the forest harvesting activities on
 27 the landowner’s property:

28 (A) Are exempt under this Division;

29 (B) Do not circumvent the requirements of this Division or Natural Resources
 30 Article, §§5-103 and 5-1601—5-1612, Annotated Code of Maryland; and

31 (C) Do not conflict with the purposes of any other Declaration of Intent.

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

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

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

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

14 (23) **Environmental Technical Manual:** A technical manual, as approved and
 15 amended by the Planning Board from time to time, that contains the requirements for
 16 submissions for conformance with the environmental regulations of the County Code.

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

20 (25) **Forest:** See “Woodland.”

21 (26) **Forest cover:** See “Woodland.”

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

26 (28) **Forest interior:** Woodlands that are located a minimum of 300 feet from the
 27 nearest forest edge.

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

30 (30) **Forest interior dwelling species (FIDS) habitat:** Woodland areas of sufficient
 31 size as to be favorable to the breeding of forest interior dwelling bird species which are assumed

1 to be present if the majority of the forest is dominated by pole-sized or larger trees (five inches or
2 greater diameter at breast height), or has a closed canopy; and meets one the following
3 conditions:

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

7 (b) Riparian forests at least 50 acres in size with a minimum average width of
8 300 feet within the watershed of a regulated stream.

9 (31) **Forest management activity:** Activities such as the harvesting of forest products,
10 thinning, wildlife habitat management, and watershed protection as identified on an approved
11 Forest Management Plan.

12 (32) **Forest Management Plan:** A plan signed and sealed by a Licensed Professional
13 Forester and approved by the Maryland Department of Natural Resources forester assigned to
14 Prince George’s County that establishes best conservation and management practices for a
15 landowner in assessment of the resource values of forested properties. A Forest Management
16 Plan shall outline forest management activities needed to meet the stated objectives for a
17 minimum of five years.

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

21 (34) **Forest Stand Delineation (FSD):** A detailed accounting of woody vegetation,
22 prepared in plan and document form, as required by this Division, and as explained in the The
23 Technical Manual.

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

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

31 (37) **Habitat enhancement:** The removal of exotic or invasive species and/or the

1 planting of native plants to improve the quality of the vegetation within an area designated for
2 woodland conservation.

3 (38) **Historic tree:** A tree that is part of a historic site or associated with a historic
4 structure.

5 (39) **Invasive non-native vegetation:** See "invasive species".

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

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

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

14 (43) **Licensed forester:** An individual who is licensed by the Maryland State Board of
15 Foresters to practice forestry, as defined in Business Occupations and Professions, §§ 7-101 - 7-
16 602, Annotated Code of Maryland.

17 (44) **Linear project:** A project whose configuration is elongated with nearly parallel
18 sides and is used to transport a utility product or public service not otherwise contained in an
19 application, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear
20 projects may traverse fee simple properties through defined boundaries, or established easement
21 rights.

22 (45) **Logging:** See "forest harvesting."

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

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

29 (48) **Municipal tree planting plan or program:** A plan or program prepared and
30 adopted by a municipality for tree planting and/or preservation within the jurisdiction.

31 (49) **Native plant species:** Plants that are native to the Mid-Atlantic region, as

1 identified in the Technical Manual.

2 (50) **Natural regeneration:** The establishment or re-establishment of a biological
 3 community of woodlands from nearby seed sources without afforestation.

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

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

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

12 (54) **Off-site clearing:** Clearing related to the subject application that occurs outside
 13 the limits of the subject application.

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

16 (56) **One-hundred year floodplain:** A delineation of the one-hundred year floodplain
 17 in conformance with Section 27-124.01 of Subtitle 27 of this Code.

18 (57) **On-site:** On the same lot or parcel or combination of lots and parcels as the
 19 subject application.

20 (58) **Permitee:** Any person to whom a permit is issued pursuant to this Division.

21 (59) **Planning Director:** The director of the Prince George's County Planning
 22 Department of the Maryland-National Capital Park and Planning Commission.

23 (60) **Preservation:** The protection of existing woodlands for the purpose of meeting
 24 the requirements of this Division.

25 (61) **Previously dedicated land:** Land that was dedicated for some other public use
 26 prior to submission of the first tree conservation plan application. This term typically applies to
 27 road dedications.

28 (62) **Qualified professional:** A licensed forester, a licensed landscape architect,
 29 certified arborist, or other qualified professional approved by the State of Maryland Department
 30 of Natural Resources who has not had their approved qualified professional status revoked by the
 31 State of Maryland Department of Natural Resources.

1 (63) **Reforestation:** The re-establishment of a biological community of perpetual
2 woodlands through the planting of trees on an area from which trees were recently removed.

3 (64) **Seedling:** An un-branched woody plant, less than 24 inches in height and having a
4 caliper of less than one-half inch measured at two inches above the root collar.

5 (65) **Specimen tree:** Trees having a diameter at breast height of 30 inches or more;
6 trees having 75% or more of the diameter at breast height of the current champion of that
7 species; or a particularly impressive or unusual example of a species due to its size, shape, age or
8 any other trait that epitomizes the character of the species. This definition includes all the United
9 States, the State of Maryland and County, or municipality champion trees.

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

12 (67) **Tree Conservation Plan (TCP):** A site map that delineates woodland
13 conservation areas and associated text that details requirements, penalties, and/or mitigation in
14 conformance with this Division and the Woodland and Wildlife Habitat Conservation Technical
15 Manual.

16 (68) **Tree Preservation Plan:** A plan and text prepared to describe specific methods to
17 be implemented during construction to ensure the preservation of designated trees.

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

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

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

29 (72) **Woodland:** A perpetual biological community dominated by trees and other
30 woody or herbaceous plants covering a land area of 10,000 square feet or greater. This includes
31 areas that have at least 100 trees per acre with at least 50 trees that are 2 inches or greater in

1 diameter at breast height. This also includes areas that have been forest harvested where the
 2 stumps remain in place for future regeneration. The terms “woodland,” “forest,” and “forest
 3 cover” are synonymous and do not include orchards or other areas without multiple layers of
 4 woody and herbaceous vegetation.

5 **(73) The Woodland and Wildlife Habitat Conservation Technical Manual (“The**
 6 **Technical Manual”):** The chapter of the Prince George’s County Environmental Technical
 7 Manual, as approved and amended by the Planning Board from time to time, that establishes
 8 standards for the implementation of this Division.

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

13 **(75) Woodland conservation threshold:** The minimum requirement for any site
 14 calculated as a percentage of the net tract area with the percentage based on its zoning per
 15 Subtitle 25-121 or by a condition of zoning approval.

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

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

27 **(78) Woodland retained - not credited:** Existing woodlands that are not proposed to
 28 be cleared and are not credited to meet to meet the requirements of this Division because the
 29 areas do not meet the required standards to be credited as woodland conservation. In the
 30 determination of the woodland conservation requirement, areas labeled “woodland retained – not
 31 credited” are not calculated as cleared. Areas labeled “woodland retained - not credited” on

1 individual residential lots less than one acre in size may be removed after bond release on the
 2 project without a revision to the TCP.

3 (79) Woody vegetation: Plants with persistent stems lasting more than one year and
 4 increasing in diameter annually.

5
 6 **Section 25-119. Applicability.**

7 (a) General

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

10 (A) All applications pursuant to Subtitles 4 (Building Code), 24 (Subdivision
 11 Ordinance) and 27 (Zoning Ordinance) of the County Code;

12 (B) All activities by a public utility;

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

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

15 (2) Applications shall contain the proper type of tree conservation plans (TCPs) as
 16 follows:

17 (A) Applications for a Conceptual Site Plan, a Comprehensive Design Plan, a
 18 Preliminary Plan of Subdivision, or other conceptual plans shall include a Type 1 Tree
 19 Conservation Plan (TCP1) or a Standard Letter of Exemption.

20 (B) Applications for a Special Exception, Detailed Site Plan, Specific Design
 21 Plan, grading permit or other similarly detailed plans shall include a Type 2 Tree Conservation
 22 Plan (TCP2) or a Standard Letter of Exemption. If a site requires approval of a TCP2 with an
 23 associated land development application, the TCP2 shall not be reviewed independently of the
 24 associated plan.

25 (3) All plans and associated information shall be prepared in conformance with the
 26 Technical Manual.

27 (4) All submittals required by this Division shall be prepared by a qualified professional
 28 and shall contain a stamp or certification from the qualified professional who prepared the plans
 29 and the plans shall contain an original signature and date applied by the preparer. If there are
 30 three documented cases of plan submittals that do not meet the minimum threshold requirements
 31 for submittal in conformance with this Division and the Technical Manual within a time frame of

1 one year, the Planning Director may recommend to the Maryland Department of Natural
 2 Resources that a qualified professional's ability to submit plans under this Division be
 3 suspended.

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

8 (6) Within thirty (30) days from receipt of a proposed TCP, the applicant shall be notified
 9 whether the plan is complete. This deadline may be extended for extenuating circumstances.

10 (7) A Forest Stand Delineation (FSD), Natural Resource Inventory (NRI), or a TCP may
 11 be revoked by the Planning Board or its designee for cause, including violation of conditions of
 12 the plan, obtaining a plan approval by misrepresentation of a material fact, failing to disclose a
 13 relevant or material fact, or a material change in conditions. Applicants, permit holders, or
 14 property owners shall be notified of the revocation in writing. Within thirty (30) days of the date
 15 of that letter, a hearing before the Planning Board may be requested by the applicants, permit
 16 holders, or property owners.

17 (8) Proposed woodland conservation areas, either on-site, or off-site as part of a
 18 woodland conservation bank, shall be free of any previous encumbrance which is not consistent
 19 with the requirements of this Division, including but not limited to easements which specifically
 20 protect woodlands for another purpose, utility easements, approved TCPs for other development,
 21 deed restrictions, and declarations of covenants for woodland conservation banking, prior to
 22 encumbering the area to fulfill on-site woodland conservation requirements or as an off-site
 23 woodland conservation bank. Property that is subject to an agricultural preservation easement
 24 shall not be precluded from having a woodland conservation easement.

25 (b) Exemptions from this Division

26 (1) General

27 (A) All development applications shall submit either a TCP or a Letter of Exemption.

28 (B) Letters of Exemption cannot be issued for properties that have a previously
 29 approved TCP, unless the TCP has expired.

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

1 (D) Trimming, planting or removal of trees in the public right-of-way does not require a
2 Letter of Exemption; however, a permit in accordance with the Maryland Roadside Tree Care
3 Law is required.

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

9 (i) The cutting or clearing of public utility rights-of-way licensed under Public
10 Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for
11 electric generating stations licensed under Public Utility Companies, §§7-207 and 7-208 or 7-
12 205, Annotated Code of Maryland, if:

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

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

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

21 (2) If required, a Letter of Exemption shall be issued by the Planning Director or designee
22 prior to the submission of any land development application requiring a review for conformance
23 with this Division.

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

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

3 (C) Letters of Exemption are valid for two years from date of issuance and must be
4 submitted either as part of a land development application that would otherwise require a TCP or
5 at the time of grading permit application. If the associated application or permit expires, the
6 Letter of Exemption also expires.

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

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

11 (B) There shall be an enforcement action taken by the County, as appropriate.

12 (4) Standard Letters of Exemption

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

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

21 (C) A Standard Letter of Exemption shall be issued when the proposed activities are
22 within the Chesapeake Bay Critical Area. If a portion of a property is outside the Critical Area,
23 that portion of the property shall be evaluated for conformance with this Division.

24 (D) A Standard Letter of Exemption shall be issued for any property that will be
25 reviewed by the State of Maryland Department of Natural Resources. These properties include,
26 but are not limited to land owned by the State of Maryland. A letter from the State of Maryland
27 Department of Natural Resources stating that they are taking jurisdiction over the review of a
28 project shall be provided with any application package. The Standard Letter of Exemption and
29 the state approved Forest Conservation Plan shall accompany all local applications.

30 (F) A Standard Letter of Exemption may be issued when local government projects
31 utilizing state funds are proposed and a letter from the State of Maryland Department of Natural

1 Resources is provided stating that they will be reviewing the project.

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

6 (H) A Standard Letter of Exemption may be issued when state funded road or highway
7 construction projects are proposed. A letter from the State of Maryland Department of Natural
8 Resources stating that they are taking jurisdiction over the review of the project shall be provided
9 with the application package.

10 (5) A Numbered Letter of Exemption may be issued when an activity or series of
11 activities results in the cumulative disturbance of less than 5,000 square feet of woodland during
12 a five-year period on a site that otherwise would be subject to this Division. A Numbered Letter
13 of Exemption is issued so that the site can be tracked and mapped over the five-year period to
14 ensure that the cumulative disturbance is less than 5,000 square feet.

15 (A) A Numbered Letter of Exemption shall not be issued for properties that are
16 required to submit applications as part of the land development process for the activity proposed.

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

22 (6) A Numbered Letter of Exemption may be issued when commercial logging and forest
23 harvesting operations are proposed on properties in the Open Space (O-S), Residential-
24 Agriculture (R-A), Residential-Estate (R-E) and the Rural Residential (R-R) zones provided that
25 the paragraphs (A) and (B) below have been addressed. If a permit other than a harvesting
26 permit is applied for on the same portion of the property within five years of the exemption
27 approval, a TCP shall be required and the exemption for harvesting shall be considered null and
28 void.

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

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

3 (c) Plan Review and Conformance

4 (1) The approval authority for TCPs is the same as that of the associated application.

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

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

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

11 (a) Any proposed reduction in the total woodland conservation on the
 12 site shall not exceed the greater of 5,000 square feet or 5 percent of the area of on-site woodland
 13 conservation originally approved; or

14 (b) The proposed change in the location or type of woodland
 15 conservation shall not exceed the greater of 10,000 square feet or 10% of the area of woodland
 16 conservation originally approved; or

17 (c) The proposed change or reduction results from governmental
 18 requirements; or

19 (d) Specimen, champion or historic trees specifically identified for
 20 preservation will not be adversely affected.

21 (e) The proposed TCP2 continues to meet all required elements of this
 22 Division.

23 (f) The TCP2 does not affect lots already sold to builders or
 24 homeowners.

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

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

30 (2) Plan validity requirements are as follows:

31 (A) A TCP1 expires if the associated plan expires;

1 (B) A TCP2 expires if the associated plan expires, or if a grading permit has expired or
 2 has not been acted upon within the time limit specified in the permit;

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

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

7 (3) TCPs shall be prepared in conformance with the Technical Manual.

8 (4) TCPs must include the legal boundaries of all lots or parcels in their entirety unless
 9 they are linear in nature. For linear projects, refer to Section 25-119 for the requirements. TCPs
 10 shall include the same properties as the associated application, unless a previous TCP approval
 11 covered a larger area or a larger area is warranted by supporting development on an adjacent lot,
 12 parcel or combination of lots or parcels.

13 (5) TCP2s shall not be approved separately for sites that are either currently under review
 14 for a land development application or that require the submittal of an application prior to
 15 development.

16 (d) Variances

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

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

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

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

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

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

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

31 (2) Notice of a request for a variance shall be given to the State of Maryland Department

1 of Natural Resources within 15 days of receipt of a request for a variance.

2 (3) Variances shall be approved by the Planning Board, Zoning Hearing Examiner,
 3 and/or the District Council for all tree conservation plans that are associated with applications
 4 heard by them. The Planning Director may approve variances for tree conservation plans that are
 5 not associated with applications heard by the Planning Board, Zoning Hearing Examiner and/or
 6 the District Council. The Planning Director's decisions are appealable to the Planning Board.

7 (4) Variances granted under this Subtitle are not considered zoning variances.

8 (e) Government Projects

9 (1) The following types of governments projects shall be reviewed and enforced by the
 10 Maryland Department of Natural Resources: projects on state-owned land, linear projects which
 11 cross multiple counties, and public utility projects. The County will review these types of
 12 projects only if specific written direction is provided by the State of Maryland Department of
 13 Natural Resources.

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

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

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

27 (C) The TCP shall provide calculations as described in The Technical Manual.

28 (3) Government projects reviewed by the County shall meet the woodland conservation
 29 requirements described in Section 25-121(c)(1)(Table 1.) for the underlying zone unless the
 30 project is an institutional development project as defined in COMAR. For activities defined as
 31 institutional development projects the conservation threshold shall be 20% and the afforestation

1 threshold shall be 15%. All NRIs and TCPs shall be submitted for the entirety of the affected
2 lots or parcels or combinations of lots or parcels.

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

8 (f) Linear Projects

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

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

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

15 (C) Linear projects that disturb less than 40,000 square feet of woodland are exempt
16 and may obtain a Numbered Exemption Letter if none of the associated properties are subject to
17 a previously approved TCP.

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

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

23 (g) Grandfathering

24 (1) TCPs that are approved prior to the effective date of this Division shall be
25 grandfathered and shall be subject to the regulations in place at the time of approval. Plans that
26 are grandfathered are subject to the expiration provisions of this Division.

27 (2) TCPs that were approved under prior regulations that did not contain the replacement
28 requirements (plans approved using the pre-1993 provisions) and that have not received an
29 approved grading permit to date, are considered expired plans. A new TCP shall be reviewed and
30 approved using the current provisions of this Division.

31 **Section 25-120. Administration.**

1 (a) Administration, Review, Reports and Fees

2 (1) This Division shall be administered by the Maryland-National Capital Park and
 3 Planning Commission's Planning Department and the County. Plan review and enforcement
 4 functions shall be coordinated between all applicable agencies and all required documentation
 5 shall be compiled to ensure that the provisions of The Maryland Forest Conservation Act and
 6 this Division are being administered properly.

7 (A) The plan review function shall be administered by the Maryland-National
 8 Capital Park and Planning Commission's Planning Department with input from the County.

9 (B) Enforcement shall be conducted by the County with technical assistance
 10 provided by the Maryland-National Capital Park and Planning Commission's Planning
 11 Department.

12 (2) At the end of each fiscal year, the County shall prepare an Annual Report to be
 13 submitted to the State of Maryland Department of Natural Resources. All documentation
 14 required by the Code of Maryland Regulations (COMAR) shall be prepared and submitted in a
 15 timely manner.

16 (3) Every two years, the State of Maryland Department of Natural Resources shall be
 17 provided an opportunity to review this Division and address its effectiveness in satisfying the
 18 requirements of The Maryland Forest Conservation Act. All documentation requested by the
 19 State of Maryland Department of Natural Resources shall be prepared and provided.

20 (4) Fees for plan review shall be paid at time of plan submission per the fee schedule
 21 approved by the Planning Board. A fee reduction may be approved by the Planning Board if the
 22 Board finds that the payment of the fee will be an undue hardship on the applicant.

23 (b) Appeal of Decisions

24 (1) Appeal of decisions made by the Planning Director or designee may be made to the
 25 Planning Board in conformance with Section 27-289(c)(8).

26 (2) Decisions of the Planning Board or the District Council related to this Division may
 27 be made following the appeal provisions applicable to the associated plan.

28 (c) Inspection and Enforcement

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

30 (A) County inspectors may enter properties subject to this Division for the
 31 purpose of inspection and enforcement. The Planning Director or designee may enter properties

1 to confirm information provided on an FSD, NRI or TCP submitted for review.

2 (B) Prior to the issuance of the first grading permit for a site subject to this
3 Division, a pre-construction meeting shall be held by the County inspector with all necessary site
4 personnel of the permittee to discuss the provisions of the TCP. At a minimum, the limits of
5 disturbance shown on the TCP2 shall be verified in the field by the County inspector and all
6 appropriate conservation notes on the plans shall be discussed with the permittee. After all
7 required temporary tree protection devices are in place, clearing and grading as depicted on the
8 approved TCP2 may proceed.

9 (C) If, during the development of the site, it is determined that additional
10 woodland clearing is necessary, an area of up to 5,000 square feet may be approved by the
11 County inspector in the field unless the clearing impacts streams or their associated buffers;
12 wetlands or their associated buffers; or the one-hundred (100) year floodplain. Additional
13 clearing of areas 5,000 square feet and greater; clearing impacts to streams and their associated
14 buffers, wetlands and their associated buffers; or the one-hundred (100) year floodplain shall
15 require the review and approval of a revision to the TCP2 prior to the additional clearing taking
16 place. Failure to submit a revised TCP2 prior to clearing more than 5,000 square feet of
17 woodland not previously approved constitutes a violation of this Division.

18 (D) Periodic inspections throughout the site development process shall be
19 conducted by a County inspector and the permittee to ensure that the work is proceeding in
20 conformance with the approved TCP2.

21 (E) Woodlands preserved to meet the requirements shall be protected from
22 construction activities utilizing temporary protection devices following the details shown on the
23 TCP2 and per the standards of the Technical Manual. Afforestation and reforestation areas shall
24 be protected from soil compaction with temporary protection devices prior to planting to prevent
25 soil compaction and permanent devices once planting has taken place.

26 (F) Specimen, champion and historic trees shall be protected in conformance with
27 the specific details provided on the TCP2. All conservation notes and practices shall be
28 implemented in the field by the permittee.

29 (G) Prior to the issuance of a use and occupancy permit, an inspection shall be
30 conducted by the County inspector to ensure that all temporary and permanent tree protection
31 devices are in place. If the tree protection devices are not in place the use and occupancy permit

1 shall not be issued. Temporary tree protection devices shall remain in place until the bond has
 2 been released for the subject property. Permanent tree protection devices shall remain in place in
 3 perpetuity.

4 (H) Prior to the issuance of the use and occupancy permit for a subject lot or
 5 parcel, an inspection shall be performed by the County inspector to ensure that the provisions of
 6 the TCP2 for the subject lot have been completed. If preservation areas are shown on the subject
 7 lot, the County inspector shall verify that the preservation area is in conformance with the
 8 approved TCP2. If the preservation area is less than that required to be preserved, either the
 9 additional area shall be planted as mitigation or a revised TCP2 shall be obtained prior to
 10 issuance of the use and occupancy permit.

11 (I) Prior to release of any bond or security related to woodland conservation, an
 12 inspection shall be conducted by the County inspector to ensure that all the requirements of the
 13 TCP2 have been met. If afforestation or reforestation areas are part of the TCP, the release of the
 14 bond or security shall not occur until the four-year management plan has been fulfilled and the
 15 County inspector has verified the work is complete.

16 (2) Enforcement

17 (A) A copy of the approved TCP2 shall be available on-site or through the
 18 applicant's representative from the time of the pre-construction meeting until the final bond for
 19 woodland conservation is released.

20 (B) The County may issue a stop work order against any person who violates any
 21 provision of this Division or any regulation, order, approved plan, or management agreement.

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

23 (i) Failure to comply with an approved TCP.

24 (ii) The destruction of woodlands in an area greater than 5,000 square feet
 25 without a permit or contrary to an approved TCP.

26 (iii) Removal of stumps, leaf litter and/or removal of other plants in
 27 woodlands, except as provided for in (3) below.

28 (iv) Seeding woodlands with grass seed.

29 (v) Covering of woodland grounds with hay or other materials that prevent
 30 woodland re-growth from occurring.

31 (vi) Installation of sheds, garages, large fountains, and other permanent or

1 temporary structures in woodlands.

2 (vii) Failure of a property owner to maintain preservation, afforestation or
 3 reforestation areas in accordance with the approved TCP. This includes conservation areas
 4 established in woodland conservation banks.

5 (viii) Any activity that adversely affects the health, structure or integrity of a
 6 woodland including, but not limited to, active recreational activities requiring the placement of
 7 playground equipment, paving for basketball or tennis courts, swimming pools, and similar
 8 impacts that eliminate or compromise perpetual woodlands.

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

11 (A) Removal of a documented dead, dying or hazardous tree. In order to be
 12 deemed dead, dying or hazardous, the tree must be evaluated by a qualified professional or
 13 certified arborist. To be considered a hazardous tree, the professional must provide
 14 documentation that the tree is in a position where it threatens property damage or could cause
 15 injury. Refer to The Woodland and Wildlife Habitat Conservation Technical Manual for
 16 required documentation of dead, dying or hazardous trees.

17 (B) Removal of documented exotic, invasive or noxious plant species. Refer to
 18 the Woodland and Wildlife Habitat Conservation Technical Manual for required documentation
 19 and for lists of plant species that are exotic, invasive or noxious.

20 (C) Passive activities such as herb gardens, sitting areas, and wildflower gardens
 21 only if existing vegetation is not removed for installation.

22 (D) Removal of severed trunks, dead branches and dead debris created as a result
 23 of storm damage.

24 (E) Removal of trash and other human-made debris.

25 (F) Work completed in conformance with a Forest Management Plan is not a
 26 violation and may be conducted with the use of wheeled mechanical equipment.

27 (G) For project subject to bonding, the County inspector may make a decision
 28 with regard to the removal of hazardous trees on the edges of cleared areas and trees damaged as
 29 a result construction activities or storm events.

30 (4) A violation of this Division is subject to a fine of up to \$9.00 per square foot of
 31 woodland area destroyed. The County shall determine the fine amount.

1 (A) The fine may be imposed in addition to the required mitigation.

2 (B) The violation fine applies whether the entire woodland is removed or whether
 3 only the understory vegetation is removed with the canopy trees remaining.

4 (C) The fine may be waived by the County if all appropriate mitigation and/or
 5 restoration is provided by the property owner or permittee.

6 (D) If the County conducts the required restoration because the property owner or
 7 permittee fails to do so in a timely manner, the fine shall not be waived or reduced.

8 (E) If the County conducts the required restoration because the property owner or
 9 permittee fails to do so, a lien may be placed on the subject property to recover the costs of the
 10 mitigation.

11 (F) Fines collected for violations shall be placed in the Woodland Conservation
 12 Fund.

13 (G) Each day a violation continues may be considered a separate violation after
 14 the period to correct the violation has expired.

15 (5) The County may seek an injunction requiring the person to cease a violation of this
 16 Division and may take corrective action to restore or reforest an area. If the County restores the
 17 area of the violation the property owner or permittee shall pay all costs associated with the
 18 restoration work that may include but not be limited to re-grading, afforestation, and
 19 reforestation.

20 (6) A violation of this Division requires the preparation of a TCP or mitigation plan
 21 that proposes how the required mitigation will be provided. Priority shall be given to restoration
 22 of the area destroyed.

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

26 (B) The implementation of all mitigation measures shall be the responsibility of
 27 the property owner.

28 (C) Mitigation shall be accomplished on an acre for acre basis.

29 (D) When specimen, champion, or historic trees designated for preservation have
 30 been damaged or destroyed, the mitigation to be provided shall be equal in value to the
 31 restoration or replacement cost as calculated using the latest edition of the "Guide for Plant

1 Appraisal” published by the Council of Tree and Landscape Appraisers. Priority shall be given
 2 to restoring the tree(s) if possible, then replanting the area with trees that total the cost of the
 3 tree(s) lost if sufficient space is available for replanting. If replanting the area is not feasible, the
 4 next option is replanting in an approved location with the final option being payment of a fee-in-
 5 lieu equivalent to the amount calculated for restoration or replacement. The restoration or
 6 replacement value shall be calculated by a professional with experience using the “Guide for
 7 Plant Appraisal.” A revision to the approved TCP shall be obtained to reflect the proposed
 8 mitigation measures, or, if the site does not have an approved TCP, a TCP2 shall be submitted
 9 for approval by the Planning Director or designee. Other methods for calculating mitigation for
 10 damaged or destroyed trees may be considered and approved by the Planning Director or
 11 designee.

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

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

20 (d) Woodland Conservation Fund

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

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

24 (B) Fines as a result of violations

25 (C) Violation fee-in-lieu payments

26 (2) Money deposited in the Woodland Conservation Fund may be used for
 27 afforestation/reforestation projects; street tree planting projects; maintenance of existing forests;
 28 activities related to achieving tree canopy goals; land acquisition for planting or conservation
 29 purposes; and/or administrative purposes associated with these projects or acquisitions.

30 (3) The Woodland Conservation Fund shall be a fund separate from all other funds and
 31 specific amounts to be expended for specific projects or areas shall be tracked by the County and

1 reported on an annual basis.

2 (e) Maintenance

3 (1) Maintenance of areas designated on a TCP for woodland conservation shall be the
4 responsibility of the property owner.

5 **Section 25-121. Woodland and Wildlife Habitat Conservation Requirements.**

6 (a) General.

7 (1) A Tree Conservation Plan (TCP) is required for all land development proposals that
8 are subject to this Division unless exempted per Section 25-119. The TCP shall be at the same
9 scale as the associated plan and shall contain all information required to clearly demonstrate that
10 the provisions of this Division are being met. “The Woodland and Wildlife Habitat Conservation
11 Technical Manual” (“The Technical Manual”) provides guidance on the information required on
12 all plans. Additional information or data deemed necessary for review of the proposed woodland
13 conservation areas may also be required. All calculations shall be made to the nearest one-
14 hundredth of an acre.

15 (2) Plans shall be prepared for the entire legal boundaries of all subject lots and/or
16 parcels unless the project is a linear project. For linear projects, refer to Section 25-119 for the
17 requirements.

18 (3) Conditions of approval of TCPs may be included in Planning Board, Zoning
19 Hearing Examiner, or District Council Resolutions to ensure compliance with this Division
20 and/or special provisions of a specific TCP.

21 (4) The first TCP approved for a subject property shall set the requirements for that
22 property. All subsequent TCPs shall address the requirements of the initial approval and any
23 additional requirements of the new application unless the previous approvals expire.

24 (5) Each TCP shall conform to the Countywide Green Infrastructure Functional Master
25 Plan and subsequent area master plan revisions, including maps and text, unless the Planning
26 Board finds that events have occurred to render the relevant plan recommendations no longer
27 appropriate or, in the case of area master plans, the District Council has not imposed the
28 recommended zoning.

29 (6) To be counted as woodland to meet the requirements, wooded areas must meet the
30 definition of “woodlands” in Section 25-118 of this Division.

31 (7) The design criteria contained in Section 25-122 of this Division shall be addressed

1 on all TCPs.

2 (8) Wildlife habitat shall be considered for preservation and maintained and restored
 3 wherever possible. Emphasis shall be placed on connectivity of natural or reforested areas.

4 (9) Native plants shall be used for all required plantings.

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

8 (b) Woodland and Wildlife Habitat Conservation Priorities

9 (1) The required locational priorities for consideration as woodland conservation are as
 10 follows in the order listed:

11 (A) Green infrastructure network elements designated in the Countywide Green
 12 Infrastructure Plan and any subsequent updates, or within the designated green infrastructure
 13 networks in master or sector plans.

14 (B) Critical habitat areas.

15 (C) Contiguous wooded areas with: high structural and species diversity; few
 16 nonnative and invasive species present; very good overall stand health; and high potential to
 17 provide a significant amount of habitat for forest interior dwelling plant, animal, and bird
 18 species.

19 (D) Champion trees designated by the United States, the State of Maryland, the
 20 County or municipalities.

21 (E) Specimen trees and historic trees.

22 (F) Forest Legacy Areas as defined by the state.

23 (G) Trees that are within the environmental setting of a historic site or associated
 24 with a historic resource.

25 (2) Priority areas may also include:

26 (A) Areas adjacent to Primary Management Areas that are not within the green
 27 infrastructure network

28 (B) 100-year floodplains

29 (C) Wetlands and their buffers

30 (D) Regulated streams and their buffers

31 (E) Extensive areas of steep and severe slopes

1 (F) Hydric soils associated with wetlands and highly erodible soils on slopes 15
2 percent and greater

3 (G) Forest Interior Dwelling Species (FIDS) habitat

4 (c) Woodland Conservation Requirements

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

10 (2) The threshold acreage is calculated by taking the gross tract area and subtracting the
11 100-year floodplain, and any previously dedicated land to determine the net tract area, and then
12 multiplying the net tract area by the threshold percentage. Refer to The Woodland and Wildlife
13 Habitat Conservation Technical Manual for more information and the worksheets required to
14 perform these calculations.

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

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

22 (5) Woodland conservation thresholds different from those provided in Table 1 may be
23 designated by conditions of zoning approval and/or by a master or sector plan. A variance is
24 required for thresholds not approved as part of a previously approved condition or master or
25 sector plan. Thresholds may not be approved through any process that are lower than the
26 thresholds provided in the Maryland Forest Conservation Act (Natural Resources Article 5-
27 1606).

1 **Table 1. Woodland Conservation and Afforestation Thresholds Requirements by Zone**

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

2 *Percentage of net tract area

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

8 (8) In the case of a property of which any part is zoned M-X-T, the woodland
 9 conservation and afforestation threshold shall be in accordance with the requirements for the

1 M-X-T Zone.

2 (d) Conservation Requirement Calculations

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

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

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

11 (B) Two acres for each acre cleared below the conservation threshold acreage (ratio of
12 2:1).

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

15 (D) The woodland replacement requirements as noted above may be waived by the
16 Prince George’s County Planning Director or designee, when all of the following conditions
17 apply:

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

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

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

22 **Table 2. Summary of Woodland Conservation Calculations**

<u>Woodland Removed</u>	<u>Replacement Ratio</u>
<u>Clearing Above Threshold</u>	<u>¼ : 1 (quarter acre added to the requirement for each acre removed)</u>
<u>Clearing Below Threshold</u>	<u>2:1 (two acres added to the requirement for each acre removed)</u>

1 **Section 25-122. Methods for Meeting the Woodland and Wildlife Conservation**

2 **Requirements**

3 (a) General

4 (1) Woodland conservation shall be designed as stated in this Division unless a
5 variance is approved by the approving authority for the associated case.

6 (2) All required conservation measures shall be completed in the time period specified
7 but no later than prior to approval of the associated building permit for the subject lot or parcel or
8 an adjacent lot or parcel. If this is not feasible due to phasing, grading, staging or other on-site
9 constraints, the conservation measures shall be completed prior to the issuance of any temporary
10 or permanent use and occupancy certificate(s) for the subject phase. All timetables shall be set
11 forth on the approved tree conservation plan (TCP).

12 (3) All afforestation and reforestation, whether on-site or off-site, shall be bonded prior
13 to the issuance of the first permit to ensure completion and long-term survivability. If a site is
14 developed in phases, on-site woodlands may be used to meet the requirement until such time as
15 sufficient woodlands are being cleared to engage the off-site requirement. Prior to approval of
16 the phase that engages the off-site requirement, the afforestation and reforestation for off-site
17 woodland conservation shall be bonded. If on-site conservation is approved to meet the
18 requirements, all conservation areas shall receive credit at a ratio of 1:1 (one acre of conservation
19 for each acre of requirement).

20 (4) If off-site woodland conservation is approved to meet the requirements and
21 afforestation, reforestation, or natural regeneration areas are proposed to meet the requirements,
22 the credit shall be at a ratio of 1:1 (one acre of conservation must be provided for each acre of
23 requirement).

24 (5) If off-site woodland conservation is approved to meet the requirements and
25 preservation areas are proposed to meet the requirements, the woodland conservation credit shall
26 be at a ratio of 2:1 (two acres of preservation must be provided for each acre of requirement).

27 (6) If off-site woodland conservation is approved to meet the requirements, then the
28 following locations shall be considered in the order listed: within the same eight-digit sub-
29 watershed, within the same watershed, within the same river basin, within the same growth
30 policy tier, or within Prince George's County. Applicants shall demonstrate to the Planning
31 Director or designee due diligence in seeking out opportunities for off-site woodland

1 conservation locations following these priorities. All woodland conservation is required to be
2 met within Prince George's County.

3 (b) Design Criteria

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

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

9 (B) Conceptual building footprints that reflect the maximum limit of disturbance
10 for the construction of buildings shall be shown and shall include add-on building features such
11 as sun rooms and decks.

12 (C) Conceptual grading shall be shown on all TCP1s and detailed grading shall be
13 shown on all TCP2s.

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

19 (E) At a minimum, the limits of disturbance shall reflect 40 feet of cleared area to
20 the front and rear of all building footprints and 20 feet of cleared area to the sides of all building
21 footprints within the subject lot or parcel. The TCP2 shall show these dimensions on all plans,
22 including plans used for house type changes.

23 (F) Woodland conservation shall not be placed on lots one (1) acre or less in size.

24 (G) Specimen trees, champion trees, and trees that are part of a historic site or are
25 associated with a historic structure shall be preserved and the design shall either preserve the
26 critical root zone of each tree in its entirety or preserve an appropriate percentage of the critical
27 root zone in keeping with the tree's condition and the species' ability to survive construction as
28 provided in the Technical Manual.

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

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

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

10 (K) Woodlands retained on lots 20,000 square feet or less in total area shall be
11 counted as cleared and may be shown on the TCP if labeled "woodland retained - assumed
12 cleared."

13 (L) Woodlands retained on lots between 20,000 square feet and one acre in size
14 may show woodland that is retained and not counted as cleared, if it meets the other design
15 criteria of this Division and is labeled "woodland retained - not credited."

16 (M) Woodlands retained per (K) and (L) above may be counted toward meeting
17 the tree canopy coverage requirements of Division 3 of this Subtitle.

18 (N) The following areas shall be treated as follows:

19 (i) Areas of previously dedicated land that remain part of the subject
20 application shall be subtracted from the gross tract area and shall not be counted toward meeting
21 the requirements.

22 (ii) Land shown within the 100-year floodplain shall be subtracted from the
23 gross tract area and shall not be counted toward meeting the requirements.

24 (iii) Land within all types of easements except surface drainage easements
25 shall not be counted toward meeting the requirements and shall be counted as cleared. Surface
26 drainage easements may be used to meet the requirements and shall not be counted as cleared
27 unless shown as cleared on the TCP.

28 (iv) Land currently protected by easements which specifically protect
29 woodlands for another purpose, including but not limited to utility easements, approved TCPs for
30 other development, deed restrictions, and declarations of covenants for woodland conservation
31 banking, that would impair the land from being used to meet the requirements of this Division,

1 cannot be counted toward meeting the requirements of this Division and cannot be subtracted
 2 from the gross tract area. Property that is subject to an agricultural preservation easement shall
 3 not be precluded from having a woodland conservation easement.

4 (v) Land areas dedicated or to be dedicated for future road construction shall
 5 be counted as cleared if the associated development is required to construct the road. Land
 6 dedicated or to be dedicated shall not be counted toward meeting the requirements.

7 (vii) Land within areas to be reserved for future road construction shall not
 8 be required to be counted as cleared and shall not be counted toward meeting the requirements.

9 (O) Woodland conservation areas shall be designed in such a way as to ensure
 10 their survival in perpetuity. At a minimum, woodland conservation areas shall be shown no
 11 closer than:

12 (i) 10 feet from the top or bottom of retaining walls

13 (ii) 20 feet from all sides of commercial buildings

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

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

17 (c) Conservation Method Priorities.

18 (1) The required priorities for woodland conservation methods are as follows in the
 19 order listed:

20 **(A) On-site preservation of connected woodland and wildlife habitat areas**
 21 using woodlands in good condition with limited amounts of invasive or exotic plants.

22 **(B) On-site afforestation/reforestation** of connected planting areas using
 23 transplanted native stock, relocated from the site or surrounding areas.

24 **(C) On-site afforestation/reforestation** of connected planting areas using native
 25 whip and seedling stock.

26 **(D) On-site specimen, champion, and historic trees** in good condition when the
 27 plan has been designed to ensure long-term survival.

28 **(E) On-site natural regeneration** of connected areas in appropriate locations
 29 containing sufficient seed sources with appropriate protection mechanisms and long term
 30 management.

31 **(F) Off-site afforestation/reforestation** of connected planting areas using

1 transplanted native stock, relocated from the site or surrounding areas, in an approved woodland
 2 conservation bank.

3 (G) **Off-site afforestation/reforestation** of connected planting areas using native
 4 whip and seedling stock in an approved woodland conservation bank.

5 (H) **Off-site preservation** of connected woodlands in an approved woodland
 6 conservation bank.

7 (I) **On or off-site habitat enhancement** projects of connected areas of existing
 8 woodlands that result in improved wildlife habitat and forest vigor through the removal of
 9 invasive or exotic plant species and/or planting of native plant species.

10 (J) **Off-site natural regeneration** of connected areas in appropriate locations
 11 containing sufficient seed sources with appropriate protection mechanisms and long-term
 12 management in an approved woodland conservation bank.

13 (K) **On-site landscaping** using native species of field grown nursery stock that
 14 establish landscaped areas a minimum of 35 feet wide and 5,000 square feet in area. At least 50
 15 percent of the plants in the landscaped area must be trees.

16 (L) **Street trees** on or adjacent to the site in the Developed Tier; within centers
 17 and corridors designated in the General Plan; or in conformance with a municipality's street tree
 18 planting plan or program, where the trees have been provided sufficient root zone space to ensure
 19 long-term survival and sufficient crown space is provided that is not limited by overhead utility
 20 lines that are existing or proposed.

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

24 (d)Woodland Conservation Options – Credit and Security

25 (1) On-site preservation, on-site afforestation, on-site reforestation and on-site natural
 26 regeneration.

27 (A) Credit: Woodland preserved, planted or regenerated on-site may be credited
 28 toward the conservation requirements on an acre for acre basis (ratio of 1:1). To be eligible for
 29 use as woodland preservation, the areas must be designated as woodland on the FSD, the
 30 woodland shall not have been harvested in the last five (5) years, and the woodland must be in
 31 good condition and with limited amounts of invasive or exotic plants.

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

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

8 (B) Security: Woodlands preserved, planted or regenerated on-site shall be placed in a
9 conservation easement recorded in the land records. Areas of reforestation shall be bonded
10 separately from other site development components at an amount to be calculated as stated in the
11 Technical Manual.

12 (2) On-site specimen, champion, and historic trees

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

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

25 (3) Off-site preservation

26 (A) Credit: Woodlands preserved off-site may be credited toward meeting the
27 conservation requirements at a ratio of two acres of off-site preservation for each acre of
28 conservation required (ratio of 2:1). To be eligible for use as woodland preservation, the areas
29 must be designated as woodland on the FSD, the woodland shall not have been harvested in the
30 last five (5) years, and the woodland must be in good condition and with limited amounts of
31 invasive or exotic plants.

1 (B) Security: Off-site preservation shall be provided in an approved woodland
2 conservation bank. Permanent protection shall be provided through the recordation of
3 documents as provided in the Technical Manual.

4 (4) Off-site reforestation and natural regeneration

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

8 (B) Security: Off-site planting and regeneration shall be provided in an approved
9 woodland conservation bank. Permanent protection shall be provided through the recordation of
10 documents as provided in the Technical Manual. Areas of reforestation shall be separately
11 bonded at an amount equal to the current cost of installation and maintenance of the required
12 plantings. To receive credit for off-site reforestation or natural regeneration a four-year
13 management plan must be prepared as part of the TCP2 following the guidelines provided in the
14 Technical Manual.

15 (5) On or off-site habitat enhancement projects

16 (A) Credit: Habitat enhancement projects may receive credit toward meeting the
17 conservation requirements at a rate of one-quarter acre of additional credit for each acre of on-
18 site or off-site habitat enhancement provided. Habitat enhancement shall be conducted within
19 woodlands that have already received credit for preservation or natural regeneration.

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

25 (6) On-site landscaping

26 (A) Credit: Landscaping may be credited toward meeting the conservation
27 requirements at a ratio of one acre of planting for each acre of conservation required (ratio of
28 1:1).

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

1 (7) Street trees

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

6 (B) Security: Street trees credited to meet woodland conservation requirements
7 shall be bonded at an amount equal to the current cost of installation and maintenance of the
8 required plantings by the permittee of the site receiving the woodland conservation credit.

9 (8) Fee-in-lieu

10 (A) Credit: Fee-in-lieu may be used to meet the conservation requirements after
11 all other options are exhausted, and if the total conservation requirement is one (1) acre or less.
12 If approved by the Planning Board, fee-in-lieu may be provided for meeting conservation
13 requirements that total one (1) acre or larger if the project generating the requirement is located
14 in the Developed Tier or if the approval of the use of fee-in-lieu addresses an identified
15 Countywide conservation priority. The fee shall be assessed at a rate of ninety cents (\$0.90) per
16 square foot of the conservation requirement. These funds shall be placed in the Woodland
17 Conservation Fund.

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

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

28 (e) Woodland Conservation Provided Off-site (Woodland Conservation Banks)

29 (1) The woodland conservation requirements of this Division may be met at an
30 approved woodland conservation bank. If off-site woodland conservation is moved after it is
31 established, it is once again subject to the provisions of this Division. Appropriateness of

1 properties for establishment as a woodland conservation bank shall be evaluated using the
 2 priorities contained in Section 25-121 of this Division.

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

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

9 (i) it is placed within a separate property description that is protected by
 10 documents recorded in the land records as provided in the Technical Manual;

11 (ii) it is not less than two acres in size or less than 10 percent of the
 12 woodland conservation requirement for the project site whichever is greater;

13 (iii) it is not placed on a private residential lot less than 10 acres in size; and

14 (iv) it meets the other minimum standards of a woodland conservation bank.

15 (2) Woodland conservation banks shall:

16 (A) Depict the method of woodland conservation on an approved TCP2 that meets
 17 all the requirements of this Division and is prepared in conformance with the Technical Manual;

18 (B) Be protected by required documents recorded in the land records which
 19 require the land in the bank to remain as woodland in perpetuity and which are enforceable
 20 through an approved TCP;

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

27 (D) Use native plant materials for afforestation;

28 (E) Meet the woodland conservation area standards contained in this Division and
 29 as specified in the Technical Manual;

30 (F) Retain at least one building site with a minimum area of one acre if the
 31 woodland conservation bank includes the entire parcel and developable areas unless a variance

1 has been approved by the appropriate approval authority in accordance with Section 25-119(d);

2 (G) Not initiate woodland conservation requirements unless the site is subject to
 3 this Division through some action of the owner;

4 (H) Conform to the design criteria contained in Section 25-122 of this Division.;

5 (I) Not approve use of any portion of a woodland conservation bank using
 6 afforestation until four years of documented successful growth have been achieved unless the
 7 woodland conservation bank owner has posted a bond or alternate form of security; and to ensure
 8 that the trees will be cared for and maintained in perpetuity.

9 (J) Shall provide conditions sufficient to ensure that the woodlands will survive
 10 in perpetuity. If afforestation is proposed on a site that was previously used for sand and gravel
 11 mining or land or rubble filling operations, soil testing shall be performed to develop a soil
 12 amendment plan for the planting area to ensure the establishment of woodlands in perpetuity.
 13 The soil amendment plan shall be reviewed by the Soil Conservation District and approved as
 14 part of the TCP2.

15 (3) Applications for woodland conservation banks shall include the following
 16 information:

17 (A) A completed application form as provided in the Technical Manual.

18 (B) A TCP2 for the woodland conservation bank which contains the information
 19 required in the Technical Manual.

20 (f) Woodland Conservation Bonding

21 (1) Projects containing woodland conservation methods that require bonding as noted
 22 in this Division shall provide security in the form of a bond, an irrevocable letter of credit, or
 23 other security approved by the County. The security shall:

24 (A) Assure that the woodland conservation methods proposed are conducted and
 25 maintained in accordance with the approved TCP;

26 (B) Be in an amount equal to the estimated cost of the work if it is required to be
 27 performed by the County in accordance with the requirements of this Division; and

28 (C) Be in a form and of a content approved by the County.

29 (2) Two years after the conservation methods have been completed, a reduction in the
 30 bond amount of up to fifty percent (50%) may be approved by the County. The request for bond
 31 reduction shall be submitted in writing and include documentation of the completion of the

1 conservation methods and a survival count of materials. The Planning Director or designee shall
 2 recommend to the County whether a bond reduction is appropriate, taking into account the
 3 following:

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

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

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

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

19 **Section 25-123. Forest Stand Delineations.**

20 (a) General

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

24 (2) The purpose of an FSD is to provide an accurate depiction of the existing forest
 25 species composition, age, condition, location, and acreage, in addition to documenting previous
 26 approvals, to determine the most suitable areas for woodland and wildlife habitat conservation.

27 (3) FSDs shall contain all required information as described in the Technical Manual.
 28 When reviewing the plan, additional information or data deemed appropriate may be required to
 29 ensure compliance with this Division.

30 (4) FSDs may be submitted at three levels of detail, depending on the associated
 31 application, as follows:

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

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

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

20 (5) The FSD must cover at least the area of the subject application; it may cover a larger
21 area if all acreages for the subject application are calculated separately.

22 (6) The FSD must be at the same scale as the subject application. The FSD and NRI shall
23 use the same base data as that used for all other plans.

24 (7) FSDs are valid for five (5) years from the date of signature by the qualified
25 professional. If the site is completely forested with mature woodlands that have not been
26 harvested, a FSD may be valid for longer than five years after a review by the Planning Director
27 or designee. An FSD shall be updated sooner than five years if significant woodland changes
28 have occurred since the date the initial FSD was prepared, such as if a portion of the site has
29 been developed or forest management activities have occurred on-site.

30 (8) If an application has a previously reviewed FSD and the site has undergone
31 development since that review, the FSD for subsequent applications on the property shall be

1 revised to reflect the existing conditions and previous approvals and shall reference the TCP that
 2 approved the clearing. All calculations shall be provided for both pre- and post-development
 3 conditions.

4 (9) FSDs shall be reviewed by the Planning Director or designee within 30 calendar days
 5 of receipt of a complete and accurate submission. If comments are not received within the 30-
 6 day timeframe, the information is considered adequate for review.

7 **Section 25-124. Forest Harvesting.**

8 (a) General

9 (1) Properties that have been or will be harvested for forest products for commercial
 10 purposes within five (5) years of land development application submission shall be subject to this
 11 Division.

12 (2) Forest harvesting for commercial purposes may be exempt from this Division and
 13 receive a Numbered Letter of Exemption if the criteria in Section 25-119(b)(6) are met.

14 (3) Forests that have been harvested may be considered for use as woodland preservation
 15 if a report from a qualified professional states that the woodlands are in good condition, are in
 16 the process of regenerating, and contain limited amounts of invasive or exotic plants.

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

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

20 (1) The removal of less than five (5) cords or two thousand (2,000) board feet of wood
 21 per year for personal use is allowed if a stocking level of eighty (80) square feet of basal area is
 22 maintained, and the shrub layer, herbaceous layer, and the leaf litter remain intact.

23 (2) Non-commercial forest management activities, such as trimming or stand
 24 improvement, are allowed if performed in accordance with an approved Forest Management Plan
 25 when no forest products are removed from the site and acceptable stocking levels are maintained.

26 (3) Removal of other forest products such as mushrooms, nuts, or berries not requiring
 27 the use of motorized wheeled or tracked equipment is allowed, unless the activity will impair the
 28 health of the forest.

29 (c) Exemptions for Forest Harvesting

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

1 (A) There is no approved TCP for the subject property except as noted in (d) below;

2 (B) There are no zoning requirements, Planning Board, Zoning Hearing Examiner or
3 District Council approvals, or decisions pending for the site that would be adversely impacted by
4 the proposed forest harvest;

5 (C) The environmental setting of a designated historic district or historic resource
6 would not be adversely impacted;

7 (D) An approved Forest Management Plan is submitted with the application for the
8 Numbered Letter of Exemption; and

9 (E) A Declaration of Intent is submitted that states the property owner's intent to
10 conduct a commercial forest harvest and not to develop the land within five years of the
11 completion of the forest harvest.

12 (2) Letters of Exemption for forest harvests shall remain valid for a period of two years
13 following the date of issuance.

14 (d) Commercial Forest Harvesting on Properties with a Previously Approved TCP

15 (1) A property with an approved TCP shall not be issued a Numbered Letter of
16 Exemption for forest harvesting.

17 (2) Forest harvesting must be performed in accordance with a revised TCP2 approved for
18 harvesting, and an approved Forest Management Plan.

19 (3) A forest harvesting permit shall be obtained from the County permitting authority
20 prior to commencement of the harvesting operation. The permit application shall include a forest
21 harvest plan and an approved erosion and sediment control plan. The forest harvesting plan is a
22 plan drawn to scale showing the regulated environmental features, the areas to be harvested,
23 staging areas, proposed stream crossings, and the forest harvesting methods proposed for each
24 area to be harvested.

25 (e) Commercial Forest Harvesting on Properties without a Previously Approved TCP

26 (1) If forest harvesting is proposed on a site without a previously approved TCP, a
27 Numbered Letter of Exemption shall be issued by the Planning Director or designee prior to the
28 issuance of the forest harvesting permit by the County permitting authority.

29 (2) An approved Forest Management Plan shall be submitted with the application for a
30 Numbered Exemption.

31 (3) A forest harvesting permit shall be obtained from the County permitting authority

1 prior to the commencement of the harvesting operation. The permit application shall include an
 2 approved forest harvest plan and an approved erosion and sediment control plan. The forest
 3 harvesting plan is a plan drawn to scale showing the regulated environmental features, the areas
 4 to be harvested, staging areas, proposed stream crossings, and the forest harvesting methods
 5 proposed for each area to be harvested.

6 (4) If a forest harvesting permit is issued for a property with an approved NRI or FSD,
 7 the NRI or FSD must be revised prior to the submittal of any subsequent development
 8 applications to reflect the harvested area and the current condition of the woodlands remaining.

10 **DIVISION 3. TREE CANOPY COVERAGE ORDINANCE**

11 **25-125. Purpose.**

12 The purpose of this Division is to:

13 (a) Preserve, maintain, enhance, and restore tree canopy coverage on developed and
 14 developing sites for the benefit of County residents and future generations;

15 (b) Establish procedures, standards, and requirements to minimize loss of tree canopy
 16 coverage before, during, and after construction or other land disturbing activities; and

17 (c) Establish procedures, standards and requirements for the provision of tree canopy
 18 coverage.

19 **Section 25-126. Definitions.**

20 (a) Definitions in Subtitle 27 of this Code (the Zoning Ordinance) and Division 2 of
 21 Subtitle 25 (the Woodland and Wildlife Habitat Conservation Ordinance) shall apply to this
 22 Division and shall be supplemented by the definitions in Subsection (b) of this Section unless
 23 otherwise noted herein.

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

25 (1) **Tree canopy:** The land area under the dripline of an existing tree or group of trees or
 26 the amount of credit provided for planting trees of a certain species and certain size at time of
 27 planting in conformance with the worksheet provided in the Technical Manual.

28 (2) **Tree canopy coverage:** The combined area measured in square feet of the tree
 29 canopies of existing trees and trees planted in conformance with this Division and the Technical
 30 Manual. Tree canopy coverage requirements are measured using a percentage of the gross tract
 31 area.

Section 25-127. Applicability.

(a) General

(1) This Division applies to:

(A) All development applications that require a tree conservation plan or a Letter of Exemption; and

(B) All activities of a unit of County or municipal government.

(2) Applications shall contain a landscape plan, or if a landscape plan is not required, a Type 2 Tree Conservation Plan may be used to demonstrate conformance with this Division.

(3) All plans and associated information shall be prepared in conformance with the Technical Manual.

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

Section 25-128. Tree Canopy Coverage Requirements

(a) Tree canopy requirements shall be met on the subject site unless a variance has been approved by the Planning Board.

(b) All activities that require a grading permit shall provide the tree canopy percentages listed in Table 1 even if the application meets the criteria for a Standard Letter of Exemption from Division 2 of this Subtitle. Tree canopy coverage requirements are based on the gross tract area.

Table 1. Tree Canopy Requirements by Zone

<u>Zone</u>	<u>Minimum Tree Canopy Coverage</u>
<u>R-O-S, O-S, R-A</u>	<u>Exempt</u>

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

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Section 25-129. Credit and Security

(a) Existing trees to be preserved, proposed on-site woodland conservation, and trees planted throughout the site may be counted toward meeting this requirement. Calculations of tree canopy coverage credits shall be completed using the worksheet provided in the Technical Manual. Credit toward meeting this requirement shall be calculated using the amount of canopy coverage a planted tree provides in ten years, and/or by calculating the amount of canopy provided by existing trees to be preserved, regardless of whether or not the existing trees are used to meet other requirements of this Subtitle.

(b) Specimen, champion, and historic trees may be credited by counting twice the square footage of the 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. Trees planted to meet other provisions of County Code may also be counted toward meeting this requirement.

(b) A bond amount equal to the replacement cost of the trees used to meet the tree canopy requirement shall be provided prior to permit issuance. The replacement cost for landscaping trees shall be based on the average cost of the plant material as provided by the applicant, with a 2.5 multiplier to cover installation costs. The replacement cost for trees used to meet this requirement that are above landscape sizes shall be calculated by the applicant using the removal cost plus the replacement value. The replacement value shall be calculated using the latest

1 edition of the "Guide for Plant Appraisal" prepared by the Council of Tree and Landscape
2 Appraisers. If the tree does not survive construction, mitigation shall be provided as stated in
3 Section 25-120(c)(6)(D). A tree management plan shall be prepared for each specimen,
4 champion, or historic tree preserved.

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

12 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect on September 1,
13 2010.

Adopted this 13th day of July, 2010.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____

BY: _____
Jack B. Johnson
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.

* * * * *